

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF SUFFOLK

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THOMAS M. MOROUGHAN,

Plaintiff,

Index No.

12-CV-0512

-against-

The County of Suffolk, Suffolk County  
Police Department, Suffolk Detectives  
Ronald Tavares, Charles Leser, Eugene  
Geissinger, Nicholas Favatta, and  
Alfred Ciccotto, Detective/Sgt. William J.  
Lamb, Sgt. Jack Smithers, Suffolk Police  
Officers William Meaney, Enid Nieves,  
Channon Rocchio, and Jesus Faya and  
Suffolk John Does 1-10, The County of  
Nassau, Nassau County Police Department,  
Sgt. Timothy Marinaci, Deputy Chief of  
Patrol John Hunter, Inspector Edmund  
Horace, Commanding Officer Daniel  
Flanagan, Detective/Sgt. John DeMartinis,  
Nassau Police Officers Anthony D.  
DiLeonardo, Edward Bienz and John Does  
11-20,

Defendants.

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One West Street  
Mineola, New York 11501

March 8, 2013  
12:00 p.m.

Rich Moffett Court Reporting  
114 Old Country Road, Suite 630  
Mineola, New York 11501  
516-280-4664

Examination Before Trial of the  
Defendant TIMOTHY MARINACI, pursuant to  
Court Order, before Rich Moffett, a  
Notary Public of the State of New York.

A P P E A R A N C E S:

LAW OFFICE OF ANTHONY GRANDINETTE

Attorneys for Plaintiff

114 Old Country Road

Mineola, New York 11501

BY: ANTHONY GRANDINETTE, ESQ.

NASSAU COUNTY OFFICE OF THE COUNTY ATTORNEY

Attorneys for Defendants

One West Street

Mineola, New York 11501

BY: MICHAEL J. FERGUSON, ESQ.

IT IS HEREBY STIPULATED AND  
AGREED by and between the attorneys  
for the respective parties herein,  
that the filing, sealing and  
certification of the within deposition  
be waived.

IT IS FURTHER STIPULATED AND  
AGREED that all objections, except  
as to the form of the question,  
shall be reserved to the time of the  
trial.

IT IS FURTHER STIPULATED AND  
AGREED that the within deposition  
may be sworn to and signed before  
any officer authorized to administer an  
oath with the same force and effect as  
if signed and sworn to before the  
Court.

- oOo -

Timothy Marinaci

TIMOTHY MARINACI, called as a  
witness, having been duly sworn by a  
Notary Public, was examined and  
testified as follows:

\* \* \*

EXAMINATION BY

MR. GRANDINETTE

Q Please state your full name for  
the record.

A Timothy Marinaci.

Q What is your address?

A Third Precinct, Nassau County  
Police.

Q Good morning, sir. How are you  
today?

A Okay.

MR. FERGUSON: I want to put on  
the record that this deposition was  
scheduled to start at 10:30.

Plaintiff's counsel has just  
arrived. It's, now, 12 Noon, and we're  
beginning at this time.

MR. GRANDINETTE: That's correct.

Q Sergeant, I'd like to show you

Timothy Marinaci

what has been marked as Plaintiff's Exhibit 1.  
It's a copy of the cover page of the amended  
complaint.

I'm going to ask you if you had  
an opportunity to read the complaint -- or the  
amended complaint that was filed in this case?

A I have seen a copy of it. I  
haven't read the whole complaint.

Q Would you like to read the is  
complaint prior to go deposed?

A No.

Q Now, you said that you thought --  
although you haven't read the whole thing, do  
you understand what the allegations are?

MR. FERGUSON: Note my objection.

THE WITNESS: Still answer if  
even though there's an objection?

MR. FERGUSON: Yes.

A I believe I do.

Q Don't tell me what if anything  
was said, but did you have an opportunity to  
discuss with your attorney, Mr. Ferguson, the  
complaint and the allegations?

MR. FERGUSON: Note my objection.

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Timothy Marinaci

Don't answer that. That's going into attorney/client privilege what we discussed.

MR. GRANDINETTE: I, specifically, said don't tell me anything that was said.

Q But, did you have an opportunity to discuss the complaint and the allegations in the complaint with your attorney?

MR. FERGUSON: That's the same thing. You're asking him, specifically, specific matters about which we discussed. It's privileged.

MR. GRANDINETTE: I'm asking him did he have a discussion, not what was said. Did he have a discussion.

MR. FERGUSON: Yes. You asked him did he have a discussion regarding the allegations in the complaint.

MR. GRANDINETTE: Right.

MR. FERGUSON: That is privileged. It's attorney/client privilege. Objection. Don't answer.

MR. GRANDINETTE: We'll come back

1 Timothy Marinaci

2 to that ruling.

3 Q Now, did you review any documents  
4 prior to testifying here, today?

5 A Yes.

6 Q Could you tell me what you  
7 reviewed, please?

8 A I reviewed the documents that I  
9 prepared.

10 Q What would those be?

11 A It was the forms and the 206  
12 package of the officers's injuries and  
13 firearms discharge report.

14 Q Did you review any other forms or  
15 any other written materials?

16 A No.

17 Q The next question is: Can you  
18 tell me what if any forms you prepared as part  
19 of your employment with respect to this  
20 particular case? So, in your official  
21 capacity, what if any forms did you fill out  
22 based upon your involvement in this particular  
23 case?

24 A I prepared the firearms discharge  
25 report and the forms contained in the 206

Timothy Marinaci

package.

Q Other than that, did you fill anything else out that you're aware of?

A There was my memo book for the day, but that was it.

Q Do you have a copy of your memo book with you?

MR. FERGUSON: I think I have a copy of it.

A Yes.

MR. FERGUSON: One-page?

THE WITNESS: One page.

MR. GRANDINETTE: Why don't we mark this as Plaintiff's Exhibit 21.

(Plaintiff's 21 marked)

Q You indicated that you reviewed the complaint with your attorney. Can you tell me -- without telling me anything that was said -- how many times did you meet with your attorney prior to this deposition?

MR. FERGUSON: Note my objection to the question because you stated something --

MR. GRANDINETTE: I'll rephrase



1 Timothy Marinaci

2 the question.

3 Q How many times have you met with  
4 your attorney prior to this deposition?

5 A Twice.

6 Q Okay.

7 A Excuse me, once.

8 Q When was the first time?

9 A I don't remember the exact dates.

10 Q Okay. Well, so one time prior to  
11 today?

12 A We discussed the case one time,  
13 yes.

14 Q Was that in person or on the  
15 phone?

16 A In person.

17 Q Can you tell me how long that  
18 was? -- how much time you spent together?

19 A I don't recall.

20 Q Can you give me an estimate?

21 A I don't recall.

22 Q How long ago was the meeting?

23 A I don't remember. I don't the  
24 exact date.

25 Q I'm not asking you the exact

1 Timothy Marinaci

2 date. I'm asking you how long was the  
3 meeting; was it a week? Was it two weeks?  
4 Was it today?

5 A It was within the last month.

6 Q So, within the last month when  
7 you met him, can you give me a approximation  
8 of how long you spent together?

9 MR. FERGUSON: You asked that  
10 question a minute ago. He said he  
11 didn't recall.

12 Q I'm asking you the question.

13 A I don't recall.

14 Q Can you tell me whether or not  
15 you spent more than half a day with your  
16 attorney?

17 A More than half a day?

18 Q Right. Four-hour day in the  
19 morning or the afternoon. Did you spend more  
20 than four hours with him?

21 A I don't believe so.

22 Q But, other than that you can't  
23 tell me whether it was five minutes or  
24 4 hours?

25 MR. FERGUSON: He said he doesn't

1 Timothy Marinaci

2 recall the amount of time.

3 A I don't recall.

4 Q Directing your attention to  
5 February 27, 2011, the date of the facts  
6 surrounding this case, can you tell me since  
7 that time did you have any contact with any  
8 Nassau or Suffolk police officer, detective,  
9 chief, inspector, etc. about this case?

10 A No.

11 Q Since February 27, 2011, in your  
12 involvement with this case, have you had any  
13 contact with any related party to the case; be  
14 it an officer, a witness, a party?

15 A Just my attorney.

16 Q Specifically, have you had any  
17 communication with any of the named parties on  
18 the amended complaint in the caption?

19 A Is that communications related to  
20 this case?

21 Q Right. Well, no. Any  
22 communications with anybody in that caption.

23 MR. FERGUSON: You mean whether  
24 it had anything to do with this case or  
25 not?

1 Timothy Marinaci

2 MR. GRANDINETTE: Yes.

3 MR. FERGUSON: Note my objection.

4 A Yes.

5 Q Okay.

6 Who?

7 A Inspector Flanagan, Officers

8 DiLeonardo and Bienz.

9 Q How many times would you say that  
10 you've spoken with Inspector Flanagan?

11 A I don't recall.

12 Q Approximately?

13 A I don't recall.

14 Q Well, do you see him every day,  
15 once a week, once a month; do you talk?

16 A I see him rarely.

17 Q So, what is your definition of  
18 rarely?

19 MR. FERGUSON: Note my objection  
20 to the relevancy of this line of  
21 questioning since he's already said he  
22 didn't speak to him about this case.

23 A Rarely. I don't have a  
24 definition of rarely. I occasionally see him.

25 Q In a calendar year, can you give

Timothy Marinaci

me since February of 2011 -- let's start with the calendar year, 2011 -- approximately, how many times would you say you saw him or spoke to him?

A I don't recall.

Q Did you see or speak to him in 2011?

A I don't recall any of the dates of when I spoke to him.

Q Okay. Did you speak to him or see him in 2011?

A I don't recall any of the dates when I saw him.

Q I'm not asking you about a date. I'm asking you the calendar year 2011; did you see him or speak to him?

A I cannot put a year, a date on any of the times that I saw him.

Q But, you have seen him or spoken to him since February 27, 2011?

MR. FERGUSON: Asked and answered is.

You can answer it, again.

A Yes.

1 Timothy Marinaci

2 Q When you communicated with him  
3 you said you know you didn't communicate about  
4 this case?

5 A Correct.

6 Q Tell me what you communicated  
7 about?

8 MR. FERGUSON: Note my objection  
9 to the relevancy to this line of  
10 questioning. if you can answer briefly,  
11 you can answer.

12 A I don't recall what we  
13 communicated about.

14 Q So, basically, since  
15 February 27th after this case you saw your  
16 inspector, but you don't know how many times  
17 you saw or spoke to him and you don't know  
18 what you spoke about, but you definitely never  
19 spoke about this case; that's a fair summary?

20 A Correct.

21 Q Now, how about DiLeonardo and  
22 Bienz?

23 MR. FERGUSON: What's the  
24 question?

25 Q How many times have you seen or

1 Timothy Marinaci

2 spoken to them since February 27th, 2011?

3 A I don't know.

4 Q Can you give me an estimate of  
5 how many times you might have seen them since  
6 February 27, 2011? Or when I say see, I mean  
7 see, speak to, either orally on the phone,  
8 e-mail, whatever.

9 A I'm sorry. What was the  
10 question?

11 Q How many times have you  
12 communicated with them since  
13 February 27th, 2011?

14 MR. FERGUSON: Note my objection.

15 A I don't know.

16 Q Can you give me an estimate?

17 A No.

18 Q So, you can't even tell me  
19 whether or not you spoken to them, let's say,  
20 twice since 2011?

21 A I've spoken to them more than  
22 that. But, I cannot give you an estimation.

23 Q Why can't you give me an  
24 estimation?

25 MR. FERGUSON: Note my objection.

1 Timothy Marinaci

2 A It's a large number of times.

3 Q Fill me in, please.

4 MR. FERGUSON: Objection. What  
5 do you mean, "Fill me in." Is that a  
6 question?

7 MR. GRANDINETTE: Yes, it is.

8 MR. FERGUSON: It's objected to,  
9 and don't answer it.

10 Q Sergeant, how often do you see  
11 him? Do you see him in --

12 MR. FERGUSON: Who are you  
13 referring to?

14 MR. GRANDINETTE: Let me finish  
15 the question.

16 MR. FERGUSON: You said "see  
17 him." Who is see him?

18 MR. GRANDINETTE: Off the record.

19 (Whereupon, there was a  
20 discussion held off the record.)

21 Q Sergeant, if at any time you  
22 don't understand my question, do me a favor,  
23 let me know.

24 Where's your command?

25 A It's on Hillside Avenue in



1 Timothy Marinaci

2 Williston Park.

3 Q What's the name of the Precinct?

4 A Third Precinct.

5 Q Are Bienz are DiLeonardo assigned  
6 there?

7 A Yes.

8 Q Were they assigned there before  
9 the 27th?

10 MR. FERGUSON: Twenty-seventh of  
11 what, 2011?

12 Q Were they assigned there before  
13 the 27th, the date of this incident?

14 A After the date of the incident?

15 Q Before the date of the incident.

16 A They were assigned there before  
17 the date.

18 Q Were they assigned there after  
19 the date of the incident?

20 A Yes.

21 Q Have they still remained under  
22 your -- at that Precinct where you're  
23 employed?

24 A Yes.

25 Q You've remained the Sergeant

Timothy Marinaci

there?

A Yes.

Q Do you see them frequently?

MR. FERGUSON: Note my objection.

Who are you referring to?

Q Do you know what I'm referring to, DiLeonardo and Bienz. Do you see these men frequently since the date of this event?

MR. FERGUSON: Objection.

A I see Officer Bienz more than I see Officer DiLeonardo.

Q During the course of your employment and their employment with the Nassau County Police Department, have you seen them on a consistent basis since the date of this event?

MR. FERGUSON: Note my objection.

What do you mean by a consistent basis?

Objection. Question is vague.

A I do work with them on a regular basis.

Q When they come in and you're working you see them, right?

A If we are working at the same

Timothy Marinaci

time, yes.

Q Are you their commanding Officer?

A No.

Q You're a Sergeant, correct?

A Yes.

Q Do you work in a supervisory capacity at the Third Precinct?

A Yes.

Q They're patrol officers?

A Yes.

Q When you're on tour as the desk Sergeant, are they -- do you supervise them amongst other officers?

A Yes.

Q So, between February 27, 2011 and today's date during the course of the time that you may have seen them, have you ever discussed this case with them?

A No.

Q Not once?

MR. FERGUSON: Asked and answered twice already.

Q Have you ever discussed this case with them even once?

1 Timothy Marinaci

2 A No.

3 Q You never communicated one  
4 sentence about the events of  
5 February 27th, 2011 with either man after your  
6 involvement that night?

7 MR. FERGUSON: Asked and answered  
8 three times already.

9 A No, I have not.

10 Q Since February 27th, 2011, have  
11 you received or sent any e-mails concerning  
12 this case?

13 A No.

14 Q Do you have an e-mail with the  
15 Nassau County Police Department?

16 A Yes.

17 Q What is that e-mail address?

18 A Tmarinace@pdcd.org.

19 Q Since the date of this event,  
20 have you written or received any  
21 correspondence regarding this case?

22 A Since the 27th?

23 Q Right.

24 A I did, I believe, redo one of the  
25 forms in the 206 package -- added information

Timothy Marinaci

to it.

Q Other than the forms you talked about, did you ever receive a letter or issue a letter regarding this case?

A No.

Q Were you ever interviewed by any party other than your attorney since the date of this event regarding the facts in this case?

A No.

Q Would that include the Internal Affairs Bureau of Nassau County?

A They've not interviewed me.

Q How about Internal Affairs of Suffolk County?

A No.

Q Did they ever request, to your knowledge, an interview of you?

A Not to my knowledge.

Q Were you ever questioned by the Suffolk County Police Department -- any member of the Suffolk County Police Department?

A No.

Q How about the Suffolk County

1 Timothy Marinaci

2 District Attorney's office?

3 A No.

4 Q Again, those questions are with  
5 respect to after your involvement on the  
6 27th -- same answer?

7 A Is that a question?

8 Q Yes.

9 A Can you repeat the question?

10 Q Sure.

11 After your involvement on the  
12 case, February 27, 2011, were you ever  
13 questioned by any member of the Suffolk County  
14 Police Department?

15 A No.

16 Q After your involvement in the  
17 case on February 27, 2011, were you ever  
18 questioned by any member of the Suffolk County  
19 District Attorney's Office?

20 A No.

21 Q Would you be kind enough to state  
22 your marital status.

23 A I'm married.

24 Q Educational background?

25 MR. FERGUSON: What's the

Timothy Marinaci

question?

Q Could you state your educational background?

A I'm a high school graduate with two years of college.

Q Where did you graduate and when high school?

A Plainedge High School.

Q What year?

A 1980.

Q Born and raised in Plainedge?

A Plainedge is not a town.

Q Where were you born and raised?

A In North Massapequa.

Q Where did you go to school -- college?

A Oswego, SUNY Oswego.

Q Is that an Associate's degree earned, or did you leave after the two years?

A I left two years.

Q What was your course of study during those two years?

A Mostly liberal arts.

Q Ever arrested or suspended during

1 Timothy Marinaci

2 the course of either high school or college?

3 MR. FERGUSON: Note my objection.

4 A No.

5 Q Any military service?

6 A Yes.

7 Q I'm sorry. When you left Oswego,  
8 was that in 82-83?

9 A I believe it was 83.

10 Q You said no military service,  
11 correct?

12 MR. FERGUSON: No, that's not  
13 what he said.

14 Q Were you ever in the military?

15 A Yes.

16 Q When?

17 A From 1981 to 1985.

18 Q What branch?

19 A Marine Corp.

20 Q I see that you were at Oswego  
21 while you were in the military; were you in a  
22 program?

23 A I was in Marine Corp. reserves.

24 Q Between 81 and 85?

25 A Yes.



1 Timothy Marinaci

2 Q Were you honorably discharged?

3 A Yes.

4 Q Thank you for your service, by  
5 the way.

6 Ever a volunteer firefighter?

7 A No.

8 Q Emergency medical technician?

9 A Yes.

10 Q When did you receive  
11 certification as an EMT?

12 A In 1986.

13 Q Did you ever put that to  
14 practical use on a consistent basis?

15 MR. FERGUSON: Note my objection  
16 to the form of the question.

17 A I have used it.

18 Q Is that during the course of your  
19 employment with Nassau County Police  
20 Department?

21 A Yes.

22 Q Were you ever re-certified?

23 A No.

24 Q Now, starting with 83 when you  
25 left Oswego, I'd like to go over your

Timothy Marinaci

employment and work history.

So, if you could start with 83 after you left Oswego and briefly go through your employment history for me.

A I worked for a company called Space Structures.

Q Where were they and what did you do?

A They were in Plainview, and I was a fork lift operator and truck driver.

Q From when to when?

A I was there for approximately nine months, I believe.

Q 83-84 time frame?

A Approximately -- I'm trying to remember the exact dates.

Q It's okay.

What did you do after that?

A I worked for a company called Raylar.

Q Where were they and what did you do?

A They were on Old Country Road, which I believe was Plainview, and I was a

1 Timothy Marinaci

2 fork lift operator there, also.

3 Q How long were you there?

4 A Approximately 9 to 10 months.

5 Q So, 84 maybe into 85?

6 What did you do next?

7 A In July of 85, I started with the  
8 New York City Housing Police Department.

9 Q Prior to starting with New York  
10 Housing PD, did you undergo a course of  
11 training at their academy?

12 A Prior to joining?

13 Q Right.

14 A The Housing Police Department?

15 Q Right.

16 A No.

17 Q Subsequent to joining, did you  
18 attend the New York Police Academy?

19 A Yes.

20 Q How long was that academy?

21 A Approximately six months.

22 Q How long did you remain with the  
23 New York City Housing Police Department?

24 A Approximately nine months.

25 Q Where did you go after leaving

1 Timothy Marinaci

2 the Housing?

3 A Nassau County Police Department.

4 Q Do you recall your start date,  
5 approximately?

6 A It was April of 1986.

7 Q What was your official position  
8 with New York City Housing Police Department?

9 A I was a police officer.

10 Q Were you ever the subject of any  
11 complaint or legal action during your tenure  
12 with New York City Housing PD?

13 A What type of complaint?

14 Q Any complaint.

15 A Yes.

16 Q Do you know if it was founded?

17 A I don't believe so.

18 Q Do you recall what -- or what  
19 they were for?

20 First of all, let me ask you, how  
21 many times complaints?

22 A I don't recall.

23 MR. FERGUSON: Note my objection  
24 to this line of questioning.

25 Q Do you know what they were for?

1 Timothy Marinaci

2 A I don't recall.

3 Q So, you don't remember how many;  
4 you don't recall what the subject matters of  
5 the complaint may have been; and you don't  
6 remember whether they were founded or  
7 unfounded?

8 MR. FERGUSON: Note my objection.  
9 He said he didn't believe they were  
10 founded. Note my objection. The  
11 question is improper.

12 A I don't recall what the  
13 complaints were about. I don't recall how  
14 many. And I don't believe that they were  
15 founded.

16 Q Now, when you started with the  
17 Nassau County Police Department, what was your  
18 rank?

19 A Police officer.

20 Q Did you attend Nassau County's  
21 academy?

22 A Yes.

23 Q Approximately how long was that?

24 A Approximately six months.

25 Q Did you enter the academy on or

1 Timothy Marinaci

2 about April 1986 when you began employment  
3 there?

4 A Yes.

5 Q Between April 1986 and today's  
6 date, have you been employed by anyone else  
7 other than the Nassau County Police  
8 Department?

9 A Yes.

10 Q On a full-time basis?

11 A No.

12 Q So, Nassau County Police  
13 Department has been your full-time employment  
14 from April 86 to today's date?

15 A Correct.

16 Q Are you still employed by Nassau  
17 County Police Department?

18 A Yes.

19 Q Could you state for me your  
20 promotional history within the Department?

21 A I was promoted in June of 2009.

22 Q Okay.

23 From police officer to --

24 A Sergeant.

25 Q Was that a result of you taking

1 Timothy Marinaci

2 and passing a civil servant test?

3 A Yes.

4 Q In between, sir, April of 86 and  
5 June 2009, can you just give me your  
6 assignments; what Precinct you were assigned  
7 to?

8 A In April of 1986, I was assigned  
9 to the police academy.

10 Q Okay.

11 A I believe it was October of 86 I  
12 was assigned to the Third Precinct.

13 Q Okay.

14 A I believe it was June of 1989 I  
15 was assigned to the narcotics enforcement  
16 team.

17 In June, I believe, of 2000 I was  
18 assigned to the Third Precinct.

19 Q Okay.

20 A And in June of 1997 I was  
21 assigned to the Bureau of Special Operations.

22 Q Okay.

23 I thought you said in June of  
24 2000 you were re-assigned from the narcotics  
25 enforcement team to the Third?

1 Timothy Marinaci

2 A No, excuse me. That was 1990.

3 That was my mistake. It was one year.

4 Q How long were you at BSO?

5 A Approximately 12 years.

6 Q Was it from BSO to the time you  
7 were promoted to Sergeant?

8 A Yes.

9 Q So, after your promotion to  
10 Sergeant in June of 2009, where were you  
11 assigned?

12 MR. FERGUSON: Third Precinct.

13 Q Third?

14 A Yes, the Third Precinct.

15 Q Have you been there ever since?

16 A Yes.

17 Q Now, with the narcotics  
18 enforcement team, were you undercover?

19 A At times, yes.

20 Q During the course of your career  
21 from April of 86 to today's date, have there  
22 ever been any formal complaints filed against  
23 you?

24 A Yes.

25 Q How many?



1 Timothy Marinaci

2 A I don't recall.

3 MR. GRANDINETTE: Off the record.

4 (Whereupon, there was a  
5 discussion held off the record.)

6 Q From January 2007 to today's  
7 date, has there been any formal complaints  
8 filed against you?

9 MR. FERGUSON: Note my objection.  
10 You can answer be.

11 A What was the start date?

12 Q January 2007.

13 A I don't believe so.

14 Q You said that you're not familiar  
15 with the subject matter of any complaint filed  
16 against you?

17 MR. FERGUSON: When are you  
18 talking about, now?

19 MR. GRANDINETTE: All of them.

20 MR. FERGUSON: Note my objection.

21 Q From April 86 to today's date.

22 MR. FERGUSON: You already stated  
23 that you're -- five year period for --  
24 stipulation of five year period  
25 concerning formal complaints.

1 Timothy Marinaci

2 MR. GRANDINETTE: There's a  
3 significant difference of what I said.

4 MR. FERGUSON: I don't agree that  
5 there is.

6 MR. GRANDINETTE: The record is  
7 clear that you're required to produce  
8 documents five years back. I am not  
9 precluded from asking questions about  
10 it.

11 MR. FERGUSON: I think you are.

12 MR. GRANDINETTE: Fine.

13 Two minutes ago, you told me,  
14 Mike, you don't have no idea about it.

15 MR. FERGUSON: You asked me a  
16 specific questions about it.

17 MR. GRANDINETTE: Are you  
18 directing him not to answer?

19 MR. FERGUSON: Anything beyond  
20 that five years, yes.

21 MR. GRANDINETTE: We'll mark that  
22 for a ruling.

23 Q Now, have you ever been charged  
24 with any administrative charges between  
25 April 1986 and today's date?

1 Timothy Marinaci

2 MR. FERGUSON: Same objection.

3 Same thing. Same objection.

4 THE WITNESS: Should I answer?

5 MR. FERGUSON: No.

6 MR. GRANDINETTE: We'll call for  
7 a ruling on that.

8 Q From January of 2007 to today's  
9 date, have you ever been charged with any  
10 administrative charges?

11 A No.

12 Q From April 1986 to today's date,  
13 have you ever been named defendant in a civil  
14 action brought against you in your work  
15 capacity?

16 A Only in this incident.

17 MR. GRANDINETTE: May I have this  
18 marked as 22, please.

19 (Plaintiff's 22 marked)

20 Q Sergeant, if you could take a  
21 look at what has been marked as Plaintiff's  
22 22, which is your training record. I'd ask  
23 you to flip through those nine pages. Ask you  
24 if that accurately reflects your training  
25 record while employed by the Nassau County

1 Timothy Marinaci

2 Police Department between April 1986 and  
3 today's date?

4 A Can you ask the question again,  
5 please?

6 Q Having looked at what has been  
7 marked as Plaintiff's 22, do you recognize  
8 that as your training record while employed  
9 with the Nassau County Police Department?

10 A Yes.

11 Q Does it accurately reflect your  
12 training history with the Nassau County Police  
13 Department?

14 A I don't know.

15 Q What about it is not accurate?

16 MR. FERGUSON: Objection. He  
17 didn't say it wasn't accurate. He said  
18 he doesn't know.

19 Q Looking at it, does it appear to  
20 you to be accurate?

21 MR. FERGUSON: Note my objection  
22 to the form of the question. If you can  
23 answer.

24 A I don't know if it includes all  
25 of my training.

1 Timothy Marinaci

2 Q Those things that are listed --  
3 for example, let's look at the last one.

4 On May 26, 2011, were you taught  
5 or trained on general topics of instruction,  
6 re-certification?

7 A I wasn't taught; I was  
8 re-certified.

9 Q So, is that accurately reflected  
10 in your training record?

11 A Yes.

12 Q And the next entry says March 23,  
13 2010; and it reflect 2.5 credit hours for  
14 M-O-N-A-D-N-O-C-K training-basic.

15 Do you recall taking or going to  
16 that training course?

17 A Yes.

18 Q Was it back on March 23, 2010?

19 A I don't recall.

20 Q At any rate, do you recall doing  
21 any training in between those two that is not  
22 reflected in this training record?

23 A I don't recall.

24 Q So, would it be fair to say,  
25 then, that at least the first examples that

1 Timothy Marinaci

2 we've selected here accurately reflect your  
3 training record with Nassau County Police  
4 Department?

5 MR. FERGUSON: He said he doesn't  
6 recall if there's anything in between  
7 there.

8 MR. GRANDINETTE: I know he  
9 doesn't recall.

10 Q As far as you know, then, at  
11 least these first two examples accurately  
12 record -- what you recall receiving training  
13 in?

14 MR. FERGUSON: Note my objection  
15 to the form. If you understand that and  
16 can answer, you can try.

17 A I recall the training I went  
18 through. I don't recall the exact dates.

19 Q Is it your understanding that  
20 when you go for a training course while  
21 employed with the Nassau County Police  
22 Department they take a role call and they  
23 record what your training is on a record like  
24 this, Plaintiff's 22?

25 A The question is: Do I know they

1 Timothy Marinaci

2 do it?

3 Q Yes. Is that your understanding  
4 of Nassau County Police Department's policy  
5 and procedure that when you go for a training  
6 course you take it and they record it as part  
7 of your training record?

8 A Yes.

9 Q Is that what Plaintiff's 22  
10 represents with respect to you, Timothy  
11 Marinaci?

12 MR. FERGUSON: Note my objection.

13 A This is a copy of my training  
14 record.

15 Q Now, sir, were you ever trained  
16 in being a member of the Deadly Force Response  
17 Team?

18 A No.

19 Q Were you ever given any written  
20 materials about duties and responsibilities of  
21 being associated with the Deadly Force  
22 Response Team?

23 A Yes.

24 Q When?

25 A I don't recall.

1 Timothy Marinaci

2 Q What form did that take?

3 A It was in the Department manual.

4 Q It's in a manual?

5 A Department manual.

6 Q Somebody specifically brought  
7 that to your attention to review, or how did  
8 that come about?

9 A The manual was given to me. I  
10 don't believe it was ever -- that specific  
11 section was ever brought to my attention.

12 Q So, this was a manual that was  
13 comprised of all the administrative rules and  
14 regulations within the Department?

15 A Yes.

16 Q Were you ever, specifically,  
17 trained or tested on the provisions regarding  
18 the Deadly Force Response Team?

19 A I don't believe so.

20 Q Have you ever participated prior  
21 to February 27th, 2011 as a member of the  
22 Deadly Force Response Team?

23 A No.

24 Q What is your understanding of the  
25 Deadly Physical Force Response Team?



1 Timothy Marinaci

2 A It is a group of officers who do  
3 an administrative investigation of use of  
4 deadly physical force.

5 Q What do you mean by  
6 administrative investigation?

7 A By administrative, it's a  
8 department investigation.

9 Q Is it administrative because it's  
10 a member of the Department who used deadly  
11 physical force, as opposed to a perpetrator?

12 A I don't know why it's  
13 administrative.

14 Q On February 27th, 2011, were you  
15 part of the Deadly Physical Force Response  
16 Team relative to this case?

17 MR. FERGUSON: He's already  
18 answered that, but go around again.

19 A No.

20 Q So, it was your understanding  
21 that on the evening of 2/27/2011 you were not  
22 a member of the Deadly Physical --

23 MR. FERGUSON: Wait a second.  
24 You're going to ask the same question  
25 three times? He answered it twice.

Timothy Marinaci

Now, you're asking the third time.

This is after you show up an hour and-a-half late, and you want to ask the same question three times?

MR. GRANDINETTE: Okay.

Q Was it your understanding that you were not a member of the Deadly Force -- Physical Force Response Team on February 27th, 2011?

A I was not a member of the Deadly Physical Force Response Team.

Q Now, what I'd like to do is we are going to switch gears. We are going to talk, specifically, about the events of 2/27.

But, what I'd like to do is start with Plaintiff's 21. If you could briefly look at that -- if that helps you -- to tell me what your tour of duty was that day?

A It was from 6:30 at night to 6:30 in the morning.

Q Was that your standard tour, 12 hours?

A Yes.

Q Now, I'm going to go back on what

1 Timothy Marinaci

2 I just said. Before we get into the events,  
3 I'm going to ask you a couple of more  
4 preliminary questions.

5 You said you were assigned to the  
6 Third as of June 2009 as a sergeant, right?

7 A I was actually assigned in July  
8 of 2009.

9 Q In that capacity, you have  
10 supervisory duties as a desk Sergeant for  
11 patrolmen?

12 MR. FERGUSON: He didn't say he  
13 was a desk Sergeant.

14 Q Why don't you explain to me what  
15 your duties were when you were assigned to the  
16 Third Precinct in July of 2009?

17 A I was assigned as a Sergeant.

18 Q In what capacity; what were your  
19 duties and responsibilities?

20 A Mostly as patrol supervisor and,  
21 occasionally, as the desk officer.

22 Q As a patrol supervisor, briefly,  
23 tell me what your duties and responsibilities  
24 were?

25 A Supervise police officers who

1 Timothy Marinaci

2 were on patrol in the Third Precinct.

3 Q Were two of those officers patrol  
4 officers assigned to the Third Precinct  
5 Anthony DiLeonardo and Edward Bienz?

6 A Are you asking me were they  
7 assigned to the Third Precinct?

8 Q Right.

9 A Yes.

10 Q Those two men, then, would be  
11 under your supervision since July of 2009 in  
12 your capacity as a Sergeant at the Third  
13 Precinct?

14 A At the time when we were working  
15 at the same time.

16 Q Right.

17 I imagine, over the course of  
18 those five years that that was fairly often,  
19 no?

20 MR. FERGUSON: What five years  
21 are you talking about?

22 MR. GRANDINETTE: From July of  
23 2009 --

24 MR. FERGUSON: Excuse me.

25 Objection to what "fairly often" means.

1 Timothy Marinaci

2 Q From July of 2009 through  
3 February 27, 2011, were DiLeonardo and Bienz  
4 under your supervision?

5 A At the time when we were working  
6 at the same time.

7 Q How often would that be during  
8 the course of your tour at the Third and  
9 their employment at the Third as patrolmen.

10 A In that time period, I don't  
11 recall how often we worked together. It was  
12 on a regular basis. But, I don't recall how  
13 often.

14 Q By a regular basis, can you give  
15 me an idea? Did you work 3-4 times a week  
16 together?

17 A Our work schedule is not set up  
18 by the week. It's a rotating basis. So, it's  
19 difficult to give you a by week estimation.

20 Q The best way that you can do  
21 it -- by tour, by month, by calendar year?

22 MR. FERGUSON: If you know.

23 Don't speculate. If you understand the  
24 question and if know. But, don't guess  
25 or speculate if you don't know.

1 Timothy Marinaci

2 A Our work schedule is set up as  
3 five working days, split up by days off. I  
4 don't recall how many times of those that I  
5 worked with those officers.

6 Q Can you give me an idea -- a  
7 general idea -- over the course of those five  
8 years how much time you spent with these guys  
9 as their supervisor?

10 MR. FERGUSON: Same instruction.

11 Don't guess. If you know, you can  
12 answer. But, if you don't, don't guess.

13 A In that time period, I don't  
14 recall.

15 Q How many patrolmen are assigned  
16 to the Third?

17 A At this time?

18 Q I'm sure the number changes give  
19 or take a couple of patrolmen, right?

20 A Yes.

21 Q Generally speaking, over  
22 the course of those five years, how many  
23 patrolmen worked in the Precinct?

24 A I'm not sure exactly. I'd say  
25 anywhere from 180 to 200.

1 Timothy Marinaci

2 Q How many Sergeants during that  
3 same time are assigned to supervise those men?

4 A That has changed.

5 Q Approximately?

6 A At what time?

7 Q Let's do 2009 to 2011.

8 A It has changed in the middle of  
9 that time.

10 Q Before the change, how many  
11 Sergeants were there?

12 A Approximately 15 to 18.

13 Q During the course of your  
14 supervisory duties of these men, did you have  
15 occasion to get to know them?

16 MR. FERGUSON: Which men are you  
17 talking about?

18 Q DiLeonardo and Bienz.

19 A At which point?

20 Q From 2007 to February of 2011.

21 MR. FERGUSON: Your question is:  
22 Did he get to know them?

23 MR. GRANDINETTE: That was my  
24 question, yes.

25 A I'm acquainted with them, yes, at

1 Timothy Marinaci

2 that time.

3 Q Could you describe for me, to the  
4 best of your ability, your relationship with  
5 Anthony DiLeonardo and Edward Bienz?

6 A I work with them, and I was a  
7 supervisory Officer.

8 Q Based upon working with them for  
9 those numbers of years, did you become  
10 friendly with them?

11 A No.

12 Q Did you ever discuss their  
13 personal relationships, their families, those  
14 kind of things?

15 MR. FERGUSON: Note my objection.

16 A I don't recall.

17 Q Did you ever socialize with  
18 either man?

19 A No.

20 Q Did you ever socialize with them  
21 at employment functions at the Third Precinct,  
22 a barbecue, a picnic, anything like that?

23 A I don't recall.

24 Q Did you, yourself, or are you  
25 aware of them ever being disciplined from the



1 Timothy Marinaci

2 time that you were assigned as a Sergeant in  
3 July of 2009 through February of 2011?

4 A Through February of 2011? I  
5 don't recall anything.

6 Q You know, the date of this  
7 incident?

8 A I have no knowledge of anything.

9 Q So, other than the fact that you  
10 worked with these guys you wouldn't describe  
11 them as friends?

12 A Were they friends?

13 Q Were you friends?

14 A Was I friends with them?

15 Q Right.

16 A No, I was not.

17 Q Did you ever have any problems  
18 with either one of them, DiLeonardo or Bienz,  
19 on a professional basis as patrolmen?

20 A What do you mean by "problems"?

21 Q Any problems. Did you think they  
22 were competent police officers? Did you think  
23 that they were --

24 MR. FERGUSON: What is your  
25 question?

1 Timothy Marinaci

2 Q Did you ever have any problems  
3 with them in a professional capacity?

4 A Not that I recall.

5 Q Were you ever responsible as a  
6 supervisor for doing reviews of Officers under  
7 your command?

8 A Written reviews?

9 Q Written, oral.

10 A No.

11 Q Let's go to February 27th, 2011.  
12 You're working from 6:30 p.m. to 6:30 a.m.,  
13 starting on the 26th going into the 27th; is  
14 that correct?

15 A Yes.

16 Q What, specifically, are you doing  
17 at the -- during that tour?

18 A I was a patrol supervisor.

19 Q As a patrol supervisor, you're  
20 assigned to the Precinct and you monitor the  
21 patrolmen working during the course of your  
22 tour?

23 A Police officers, yes.

24 Q You said there were 180 guys.  
25 Give me an idea on the 26th how many men were

1 Timothy Marinaci

2 working -- how many patrolmen were working?

3 MR. FERGUSON: Objection. You  
4 mischaracterized his testimony.

5 MR. GRANDINETTE: I did?

6 MR. FERGUSON: Yes.

7 Q How many patrolmen would be  
8 working on February 26, 2011, roughly?

9 MR. FERGUSON: Which tour?

10 Q During your tour, roughly.

11 A I don't recall.

12 Q Can you give me an idea how many  
13 patrolmen would be working, roughly, that you  
14 were responsible for?

15 A There are 25 patrol sectors in  
16 the Third Precinct. Not all of them are  
17 manned. Some of them are in 2-man cars, plus  
18 other assignments.

19 Q You've been doing this for five  
20 years, right?

21 A No.

22 Q Weren't you -- on February 2011,  
23 is it your testimony that you can't give me a  
24 rough estimate of how many patrolmen you would  
25 be supervising at any given time?

1 Timothy Marinaci

2 A That is not my testimony, no.

3 Q That's what I'm looking for. Can  
4 you give me an estimate; 10 guys, 15, 25 guys?

5 MR. FERGUSON: When you say guys,  
6 are you saying --

7 MR. GRANDINETTE: Patrolmen.

8 MR. FERGUSON: Are you assuming  
9 that there are no women in the police  
10 department?

11 MR. GRANDINETTE: Patrol  
12 officers.

13 A I would say approximately 10 to  
14 12 that I was directly supervising.

15 Q Then there were other sergeants  
16 working as well who would be responsible for  
17 the other patrol officers on the tour at the  
18 same time?

19 A Yes.

20 Q When the patrol officers were on  
21 tour, they were responsible to communicate  
22 with you when they called into the Precinct?

23 A No.

24 Q Was one of your responsibilities  
25 to oversee, for example, arrest paperwork or

Timothy Marinaci

processing prisoners of the 12 officers that were working during the tour?

A No.

Q Explain to me what your oversight responsibilities would have been for these men or women?

A On that date?

Q Yes, in general.

MR. FERGUSON: That's two different things.

Q On or about February 2011, explain to me what your duties as a supervisor would be for the men and women under your supervision?

A It depends on what position I was holding that day.

Q What positions could have you been holding?

A Patrol supervisor or desk Officer.

Q Explain, first, patrol supervisor, and then second, desk Officer?

A As patrol supervisor, I supervised officers on patrol in the street.

1 Timothy Marinaci

2 Q What does that mean?

3 A I monitor the radio assignments  
4 and just supervise their general conduct and  
5 response to assignments.

6 Q What about if they make an  
7 arrest; do you have any responsibilities  
8 there?

9 A If an Officer makes an arrest?  
10 At times, yes.

11 Q What are those responsibilities?

12 A Supervision.

13 Q Do you ever sign off on any of  
14 the paperwork?

15 A As a patrol supervisor?

16 Q Yes.

17 A No.

18 Q Do you have to review the arrest  
19 information with the patrolmen before they  
20 make an arrest? Do you have any role in that?

21 A At times.

22 Q Explain that to me.

23 A If I am at the scene of an  
24 arrest, I would discuss with the Officer the  
25 situation and supervise what happens after

Timothy Marinaci

that.

Q So, at times they may call you to the scene?

A Yes.

Q Is that because they call you for assistance; they're looking for your guidance and direction?

MR. FERGUSON: Note my objection as to what somebody else's purpose is on some unknown date under some unknown circumstances.

A What's the question, again?

Q You don't go to every arrest scene, do you?

A No.

Q When you go to an arrest scene that is because you get a request from a patrolman under your supervision?

A Not always.

Q But, when it happens is that when you do it?

MR. FERGUSON: Note my objection. That doesn't make any sense.

Q If somebody calls you and asks

1 Timothy Marinaci

2 you "Sarge, come down to the scene," you  
3 respond to the scene?

4 A Yes.

5 Q Sometimes you respond to the  
6 scene based upon what you hear and the nature  
7 of the call, I assume?

8 A Yes.

9 Q Something very serious you may  
10 respond, right?

11 A Yes.

12 Q So, there are times when you're  
13 involved with oversight and discussion of  
14 facts and circumstances of an arrest, right?

15 A Yes.

16 Q As a desk Sergeant, what are your  
17 duties and responsibilities?

18 A Desk Officer is responsible for  
19 that tour of duty, for administrative  
20 functions in the Precinct, and for overall  
21 supervision of the Third Precinct.

22 Q In your supervisory capacity, how  
23 many times have you assisted or been present  
24 at a crime scene involving either DiLeonardo  
25 or Bienz?



1 Timothy Marinaci

2 A I don't recall.

3 Q Can you tell us whether or not  
4 you've ever been at a scene with DiLeonardo or  
5 Bienz?

6 MR. FERGUSON: At a scene?

7 Q When I say "a scene" respond to  
8 an arrest as a result of their call for  
9 instance, first.

10 MR. FERGUSON: You got to make  
11 that clear from your question. You're  
12 just saying have you ever responded to a  
13 scene. Now, you're something it's  
14 something else. You got to make it  
15 clear from your question.

16 I could be objecting to every one  
17 of these questions. But, I am trying to  
18 get through this.

19 Q You can answer the question.  
20 Have you ever responded to a call by  
21 DiLeonardo or Bienz for supervision at an  
22 arrest scene?

23 A Ever?

24 Q Yes.

25 A I have for Officer Bienz. I

1 Timothy Marinaci

2 don't recall if I have for Officer DiLeonardo.

3 Q The next question is: Have you  
4 -- not at their specific request -- but, have  
5 you based you upon the nature and  
6 circumstances, ever responded to an arrest  
7 scene on your own that either DiLeonardo or  
8 Bienz were involved with?

9 A I believe I have for Officer  
10 Bienz. I don't recall for Officer DiLeonardo.

11 Q Your recollection, then, you've  
12 only been at maybe 1, 2 arrest scenes with  
13 Bienz since July of 2009 through February  
14 of 2011, and you have no recollection of ever  
15 participating in one with DiLeonardo?

16 MR. FERGUSON: Just for  
17 clarification, when you say an arrest  
18 scene with Bienz, you mean Bienz is  
19 present or he's the arresting officer?

20 MR. GRANDINETTE: He is present.

21 MR. FERGUSON: He just happens to  
22 be there; that's what your including?

23 MR. GRANDINETTE: Yes, he's  
24 there, in his official capacity. Not  
25 that he is there having a milk shake.

1 Timothy Marinaci

2 MR. FERGUSON: No one is talking  
3 about milk shakes.

4 You're saying at a scene with  
5 Bienz, I just wanted to know, are you  
6 saying that Bienz -- you know, many  
7 officers can respond to a scene.

8 Are you saying -- are you asking  
9 this Sergeant whether Bienz was the  
10 arresting officer when he was present;  
11 is that what you're asking?

12 MR. GRANDINETTE: No.

13 I'll repeat the question.

14 Q You mentioned, earlier, that you  
15 might have been at a scene at the request of  
16 Bienz when he called in and requested a  
17 Sergeant to come to the scene, right?

18 A It is possible.

19 Q But, you don't have such a  
20 recollection with respect to DiLeonardo,  
21 correct?

22 A Correct.

23 Q Do you have any recollection of  
24 you -- of your own accord -- responding to a  
25 scene where DiLeonardo or Bienz were

Timothy Marinaci

participating in the law enforcement capacity  
of investigating a crime?

A Yes.

Q How many times?

A I don't recall.

Q Was it more than once?

A Yes.

Q More than twice?

A Yes.

Q More than three times?

A Yes.

Q More than six times?

A Yes.

Q More than a dozen?

A Yes.

Q More than 20?

A Don't recall.

Q So, somewhere between a dozen and  
20, perhaps?

A Is that a question?

Q Yes.

A I don't recall.

Q Of those, have you ever  
signed off on any of the arrests? Have you

1 Timothy Marinaci  
2 ever signed off on any of the arrest  
3 paperwork?

4 MR. FERGUSON: Whose arrest are  
5 we talking about?

6 MR. GRANDINETTE: DiLeonardo or  
7 Bienz?

8 MR. FERGUSON: You mean, were  
9 they the arresting officer?

10 MR. GRANDINETTE: On their arrest  
11 paperwork.

12 A It's possible, but I don't  
13 recall.

14 Q Now, what if anything happened on  
15 February 27th that engaged you in police  
16 action related to this case?

17 A I didn't take any police action  
18 in regard to this case.

19 Q At some point, didn't you get a  
20 call or somebody put you on notice that there  
21 was a problem with Officer DiLeonardo?

22 A Yes.

23 MR. FERGUSON: Note my objection  
24 to the form of the question.

25 Q Tell us how it came to be that

Timothy Marinaci

you received knowledge that there was an  
Officer who discharged his firearm off-duty?

A That's very broad. I need to --

Q Who advised you on the evening of  
February 27, 2011, that there was an incident  
involving DiLeonardo and Bienz?

A No one advised me on the evening  
of February 27th.

Q Tell me how it was that you first  
became involved in this case?

A Initially?

Q Yes.

A I was told by the desk Officer in  
the Third Precinct that an incident had  
occurred.

Q Who was that?

A Sergeant Papa.

Q What did Sergeant Papa tell you?

A He told me that he received a  
phone call from Suffolk County Police about  
the incident.

Q Did he give you any more specific  
facts, or he just told you that there was an  
incident? Did he tell you there was a

1 Timothy Marinaci

2 shooting, for example?

3 A Yes.

4 Q As best you can recall, tell me  
5 what Sergeant Papa told you?

6 A He told me that he had been told  
7 that Officer DiLeonardo had been shot and was  
8 in Huntington Hospital.

9 Q As a result of you being told  
10 that by Sergeant Papa, what if anything did  
11 you do, or what if any direction did you  
12 receive?

13 A I discussed it with Sergeant  
14 Papa, and I responded to Huntington Hospital.

15 Q Would you be kind enough to tell  
16 me what you discussed with Sergeant Papa which  
17 resulted in your responding to Huntington  
18 Hospital?

19 A I don't remember the exact  
20 conversation.

21 Q To the best of your recollection.

22 A We discussed that someone needed  
23 to go there, and I was the closest. So I  
24 went.

25 Q When you say the closest, did you

1 Timothy Marinaci

2 live closest to Huntington Hospital?

3 MR. FERGUSON: Did you live, you  
4 said?

5 Q Your personal residence?

6 MR. FERGUSON: Wait a second. He  
7 did not say he was at his personal  
8 residence. What does his personal  
9 residence have to do --

10 Q You said that you were closest?

11 MR. FERGUSON: He wasn't talking  
12 about his personal residence.

13 MR. GRANDINETTE: I don't know  
14 what he is talking about. I'm asking  
15 the question.

16 MR. FERGUSON: I'm interjecting  
17 here.

18 MR. GRANDINETTE: You can't  
19 testify.

20 MR. FERGUSON: I am not  
21 testifying. I'm talking about the law  
22 in the State of New York. You can't ask  
23 officers questions about their personal  
24 residence.

25 MR. GRANDINETTE: I don't want to



Timothy Marinaci

know about his personal residence.

MR. FERGUSON: That's why I'm interjecting here because you're starting to talk about personal residence, and the Officer wasn't saying anything about that. I'm mindful of what the law is. I don't want him to say anything about his personal residence.

Q Don't give me your personal residence.

Was the reason why you were picked to go as opposed to Sergeant Papa because it was out in the Huntington area and you live closer to the hospital than he did?

A No.

Q What did you mean, then, when you said you were closest? Were you closest to DiLeonardo and Bienz?

A When you say closest to them, what do you mean?

Q Did you know them better than Sergeant Papa?

A I don't know.

1 Timothy Marinaci

2 Q So, why were you selected? What  
3 did you mean when you said I was closest?

4 A Physically closest to Huntington  
5 Hospital.

6 Q Where was Sergeant Papa?

7 A He was the desk officer.

8 Q So, you were both in the Third  
9 Precinct when you were discussing this, or you  
10 were somewhere else?

11 A I was a patrol supervisor on  
12 patrol.

13 Q So, you were out of the Third  
14 Precinct, physically?

15 A No. I was in the confines of the  
16 Third Precinct.

17 Q So, you both in the Third  
18 Precinct. When you say you're closer -- you  
19 both on Willis Avenue in Mineola; what do you  
20 mean you're physically --

21 A I was not on Willis Avenue.

22 Q Where were you?

23 A I was within the confines of the  
24 Third Precinct.

25 Q I'm not understanding you because

1 Timothy Marinaci

2 you said you were the closest guy to respond  
3 to the hospital, you're both in the confines  
4 of the Third Precinct, you and Papa?

5 A Yes.

6 Q At any rate, did you have any  
7 other further discussion with Sergeant Papa  
8 other than he told you that DiLeonardo was  
9 shot and he was at Huntington Hospital?

10 A Any other discussion that night?

11 Q Right. Before you left.

12 A Before I left where?

13 Q The Third Precinct.

14 A The confines of the Third  
15 Precinct?

16 Q The confines of the Third  
17 Precinct.

18 A After our initial phone call, I  
19 did not speak to him again until after I left  
20 the confines of the Third Precinct.

21 Q When you say the confines of the  
22 Third Precinct, are you talking about the  
23 outlying area which encompasses the Third  
24 Precinct?

25 A The geographical area of the

Timothy Marinaci

Third.

Q So, where were you when you spoke to Sergeant Papa?

A I believe I was in Westbury.

Q So, that is why you said you were a little closer. You were already on the road in the car in Westbury, so you decided to shoot right out there because this was a relatively an emergency situation -- you were concerned?

MR. FERGUSON: Couple of parts to that question. If you can answer any part of it.

A I didn't decide. I was told by Sergeant Papa to go.

Q What time did you go?

A In my memo book I have approximately 1:40 in the morning.

Q What time did you arrive?

A I don't recall.

Q Is it in your book?

A No.

MR. FERGUSON: I'm going to take a break. I need to use the men's room.

1 Timothy Marinaci

2 Let's take five minutes; all right?

3 MR. GRANDINETTE: Yes.

4 (Whereupon, a short break was  
5 taken at this time.)

6 Q Sergeant, I want to go over some  
7 times with you.

8 According to your memo book, you  
9 had this conversation with Sergeant Papa and  
10 you started out to Huntington Hospital at  
11 0140, which is 1:40 a.m., right?

12 A I responded to Huntington  
13 Hospital -- I began to respond at 1:40.

14 Q And, obviously your phone  
15 conversations preceded your leaving for the  
16 hospital?

17 A Yes.

18 Q After you had this phone  
19 conversation, would it be fair to say that you  
20 immediately left to the hospital, or did some  
21 time go by before you left?

22 A No. I believe I responded  
23 directly to the hospital.

24 MR. GRANDINETTE: If we could  
25 have these marked, which are stamped

Timothy Marinaci

number 149 and 150 of the Nassau IAB

report, marked as Plaintiff's 23.

(Plaintiff's 23 marked)

MR. FERGUSON: Let me see that,  
please.

Q Officer, if you take a look at  
Plaintiff's 23 you'll see on there it's a  
printout. It has a phone number and a  
location, Tipon Drive in Huntington with the  
cross street of Oakwood Road. The complainant  
is anonymous. It indicates that the remarks  
in front of school off involve shooting Nassau  
County PD, white taxi, unknown direction.  
Took complainant gun, maybe self transported  
to Huntington Hospital. And the date of that  
call was 2/27/11, and time received is  
1:20 a.m.; you see that?

MR. FERGUSON: Note my objection  
because you're interpreting a document  
which doesn't exactly say what you said.  
Nor, does it say that this is a 911  
call. With that objection, what is your  
objection?

Q Take a look at Plaintiff's 23.

Timothy Marinaci

Is that a fair assessment is of Plaintiff's 23?

MR. FERGUSON: Note my objection.

A I don't know what Plaintiff's 23 and I don't know what this is.

Q It's a printout. It indicates a date and time received of call, which is anonymous, from the communications bureau of the Suffolk County Police Department.

MR. FERGUSON: Objection. You're testifying, now. It doesn't say that at all. Note my objection.

Q Have you ever seen a printout recording a 911 communication?

MR. FERGUSON: From Suffolk County?

MR. GRANDINETTE: That's not my question.

Q Have you ever seen a 911 printout?

A Yes.

Q Does this document that's in front of you look familiar to you having had an opportunity to review other 911 printouts?

1 Timothy Marinaci

2 MR. FERGUSON: Note my objection.

3 A No.

4 Q So, would this document help you  
5 or not help you with respect to the time on or  
6 about the time that the shooting was reported?

7 MR. FERGUSON: Note any  
8 objection.

9 A This would not help me.

10 Q Fair enough.

11 Do you know what time, based upon  
12 your involvement with this case, that the  
13 shooting incident was reported?

14 MR. FERGUSON: Note my objection.

15 A I don't believe I know the time  
16 of the actual shooting, no.

17 Q Do you know the time that it was  
18 reported relative to the time that you  
19 received notice of it?

20 MR. FERGUSON: Note my objection.

21 A Can you repeat the question?

22 Q Do you know how much time went  
23 by, approximately, between the time the  
24 shooting was reported and the time you had a  
25 conversation about the shooting with Sergeant



1 Timothy Marinaci

2 Papa?

3 MR. FERGUSON: Note my objection.

4 A No.

5 Q Assume for me, sir, that the  
6 shooting was reported about 1:20 in the  
7 morning. Would it be fair to say that you  
8 received notice of it approximately 20 minutes  
9 later?

10 MR. FERGUSON: Objection.

11 A I don't know what time the  
12 shooting was. And I don't have an exact time  
13 that I was notified. The times in my meo book  
14 are approximate.

15 Q This is an approximation. I'm  
16 asking you to assume that somebody placed a  
17 call on or around 1:20; you had a conversation  
18 on or around 1:40; approximately give or take  
19 five minutes either way, is it fair to say  
20 that about 20 minutes after it was reported  
21 you got notice of it?

22 MR. FERGUSON: Objection.

23 There's no foundation when this was  
24 reported. So it's calling for pure  
25 speculation.

1 Timothy Marinaci

2 MR. GRANDINETTE: According to  
3 your IAB report, which you have given me  
4 as part of the discovery it is not  
5 speculation, and it's an appropriate  
6 hypothetical.

7 MR. FERGUSON: Question calls  
8 for -- calling for this witness to give  
9 speculative testimony based entirely on  
10 speculation.

11 MR. GRANDINETTE: Are you  
12 directing him not to answer.

13 MR. FERGUSON: Yes. Calls for  
14 speculation.

15 Q After you received the call that  
16 an Officer who you knew personally was in a  
17 hospital after being shot, did you find out  
18 approximately when those events happened?

19 MR. FERGUSON: Note my objection.

20 A At some point, I found out.

21 Q What time did you find out that  
22 they happened?

23 A I don't recall.

24 Q Is there anything that would  
25 refresh your recollection?

1 Timothy Marinaci

2 A About what time I found out that  
3 it had occurred?

4 Q Yes.

5 A I don't believe so.

6 Q Nothing you looked at today?

7 A I don't recall any time somebody  
8 told me what type it happened.

9 Q So, you have no idea whether you  
10 spoke to Sergeant Papa five hours after the  
11 shooting or 20 minutes after the shooting?

12 A I didn't say that.

13 Q Can you tell me in a general  
14 sense how long after the shooting you got  
15 notice from Sergeant Papa?

16 MR. FERGUSON: Objection. He  
17 already answered this question several  
18 times. He doesn't know the time of the  
19 shooting. It's impossible to answer  
20 that.

21 Q Can you answer it?

22 A I don't know the time of the  
23 shooting.

24 Q Notwithstanding that you don't  
25 know the exact time of the shooting, can you

1 Timothy Marinaci

2 give me an estimate? Did you find out within  
3 a half hour, an hour, three hours?

4 A There is a time on some of the  
5 paperwork. I would have to review that to  
6 know what time.

7 Q At any rate, what time -- you  
8 don't know what time you got to the hospital.

9 A I don't recall an exact time, no.

10 Q I'm going to show you what has  
11 been previously marked, sir, as Plaintiff's  
12 Exhibit -- can we have this marked as  
13 Plaintiff's 24?

14 (Plaintiff's 24 marked)

15 Q Take a peek at what has been  
16 marked as Plaintiff's 24. I'd ask you to look  
17 down on the list of names until you reach your  
18 name; you see the seventh name?

19 A Yes.

20 Q That's you, Sergeant 389?

21 A That's my shield and last name.

22 Q According to this crime scene  
23 log --

24 MR. FERGUSON: Doesn't say it's a  
25 crime scene log. Note my objection.

1 Timothy Marinaci

2 Q According to the scene log, whose  
3 address is the Huntington Hospital's ER  
4 entrance, it has you as arriving at  
5 0211 hours.

6 MR. FERGUSON: Note my objection.

7 It doesn't say anything about arrival.

8 It just says date and time.

9 Q You see that?

10 A Yes.

11 Q Does that accurately reflect the  
12 time that you arrived at Huntington Hospital?

13 A I don't recall.

14 Q When you got there, what did you  
15 do; did you check in with anybody?

16 A What do you mean by "check in?"

17 Q Let's start. You left at 1:40.  
18 You drove to Huntington Hospital, right?

19 A Yes.

20 Q Were you alone or were you with  
21 someone?

22 A I was alone.

23 Q Were you in a marked or unmarked  
24 car?

25 A Marked.

1 Timothy Marinaci

2 Q Where did you park your car when  
3 you got to the hospital?

4 A In the emergency room parking.

5 Q What did you observe?

6 A From the vehicle?

7 Q What did you observe when you  
8 parked your car in the parking lot?

9 A I observed the parking lot.

10 Q Describe it.

11 A It was a parking lot; nothing out  
12 of the ordinary.

13 Q That's your description? There's  
14 parking lots that are acres long. Is there  
15 anything that you recall about this parking  
16 lot?

17 A No.

18 Q Can you describe it for me with  
19 any more specificity other than it's a parking  
20 lot?

21 A No.

22 Q Did you observe any ambulances in  
23 the parking lot?

24 A In the parking lot? No.

25 Q Did you observe any vehicles

1 Timothy Marinaci

2 taped off with police tape?

3 A In the parking lot?

4 Q Yes.

5 A No.

6 Q When we're saying parking lot,  
7 are we specifically talking about the parking  
8 area immediately outside the ER?

9 A I'm talking about the parking lot  
10 of the hospital.

11 Q Then we are talking about two  
12 different areas.

13 you didn't park in the ER lot?

14 A I don't recall if it was ER  
15 lot -- if that's what it was called -- or it  
16 was just a parking lot.

17 Q At any rate, you don't recall  
18 seeing a Deboro taxi white in color, taped off  
19 with crime scene tape?

20 MR. FERGUSON: Where are you  
21 talking about, now, in the parking lot  
22 that he was in?

23 MR. GRANDINETTE: In the ER  
24 parking lot.

25 A As I said, earlier, I don't know

Timothy Marinaci

if the lot I was in was actually called the ER parking lot or if there was another area called the ER parking lot.

Q You were in uniform?

A Yes.

Q Were you with anybody?

A No.

Q On your way to the hospital, did you have any further communications with either Sergeant Papa or anyone else about this case?

A I don't recall.

Q When you spoke to Sergeant Papa you said you were on the phone. Were you on a cell phone?

A Yes.

Q What cell phone number were you on?

MR. FERGUSON: Is this a personal phone or is it a department phone?

THE WITNESS: I don't recall which one it was. I believe it was my personal phone. But I don't recall definitely.



1 Timothy Marinaci

2 Q What is your department issued  
3 phone?

4 A I don't have a department issued  
5 phone.

6 Q Did you have a department issued  
7 phone on February 2011?

8 A I don't recall.

9 MR. GRANDINETTE: I call for the  
10 production of that.

11 Q How long were you on the phone  
12 with Sergeant Papa?

13 A In that initial call?

14 Q Yes.

15 A I don't recall.

16 MR. GRANDINETTE: I don't need  
17 the number, but I would call for the  
18 production of his cell records on that  
19 date with the redacted cell phone  
20 record.

21 MR. FERGUSON: We're not  
22 producing any such record without a  
23 direction from the Court.

24 Q What did you do when you arrived,  
25 physically?

1 Timothy Marinaci

2 A I parked my vehicle.

3 Q Then what did you do?

4 A I walked to the -- towards the  
5 doors of the emergency room.

6 Q Then what did you do?

7 A At which point?

8 Q Next.

9 A As I was walking?

10 MR. GRANDINETTE: Let's go off  
11 the record for a second.

12 (Whereupon, there was a  
13 discussion held off the record.)

14 Q When you got to the emergency  
15 room doors, what did you do next?

16 A When I got to the doors? I went  
17 inside.

18 Q Then what did you do?

19 A I believe the next thing I did  
20 was locate Officer DiLeonardo.

21 Q Where did you locate Officer  
22 DiLeonardo and how?

23 A I located him in a treatment  
24 room. How I located him? I don't recall.

25 Q What did you do after you located

1 Timothy Marinaci

2 him?

3 A I walked into the treatment room.

4 Q Could you describe the treatment  
5 room for me?

6 A A generic room you find in most  
7 hospitals. Nothing comes to mind to describe  
8 it other than that.

9 Q Did it have four walls and a  
10 door?

11 A It had four walls and a door. I  
12 don't recall having doors.

13 Q Did you have to open the door to  
14 gain entry?

15 A I don't believe so.

16 Q Was the door open?

17 A I believe so.

18 Q When you entered the room, who  
19 else was present in the room?

20 A I believe there was a nurse and  
21 Officer DiLeonardo's girlfriend.

22 Q Could you describe the nurse for  
23 me, or did you come to learn the nurse's name?

24 MR. FERGUSON: That's two  
25 completely different things.

1 Timothy Marinaci

2 Q Did you come to learn the nurse's  
3 name who was in the room?

4 A No.

5 Q Can you describe her for me?

6 A A white female in a nurse's  
7 uniform.

8 Q Age?

9 A I don't recall.

10 Q Height?

11 A I don't recall.

12 Q Any physical characteristics you  
13 do recall; brunette, blond, red head?

14 A Female white.

15 Q Slight, heavy?

16 A Don't recall.

17 Q Tall, short, any  
18 personal characteristics?

19 A I don't recall.

20 Q This person that you don't  
21 recall -- this female nurse -- did you speak  
22 to her at all that night from the time you  
23 arrived to the time you departed about any  
24 subject matter?

25 A I don't believe so.

1 Timothy Marinaci

2 Q Did she communicate any words to  
3 you from the time you arrived to the time you  
4 left?

5 A I don't believe so.

6 Q Other than the nurse,  
7 DiLeonardo's girlfriend and DiLeonardo, was  
8 there anyone else present in the room?

9 A Not that I remember.

10 Q Was there anyone outside the  
11 door? In other words, a Suffolk County Police  
12 Officer; was there anyone assigned to the  
13 room?

14 A I don't recall.

15 Q Is it your understanding that you  
16 were the first Nassau County Police Officer to  
17 arrive?

18 A The first Nassau County Police  
19 Officer to arrive at the hospital?

20 Q Yes.

21 A No.

22 Q I'm talking about other than  
23 DiLeonardo and Bienz?

24 A Was I the first other than them?

25 Q Yes.

1 Timothy Marinaci

2 A Yes.

3 Q You were there in your official  
4 capacity, right?

5 A Yes.

6 Q What did you understand your  
7 duties and responsibilities to be when you  
8 responded to the hospital?

9 A When I first responded?

10 Q Yes.

11 A I had been told that an officer  
12 had been shot, and I was to find out the  
13 situation.

14 Q So, Papa said to you in those  
15 words "Find out the situation"? Or did he say  
16 find out the underlying circumstances of the  
17 shooting?

18 MR. FERGUSON: He's already been  
19 through twice this conversation, at  
20 least, with Papa in terms of what he  
21 recalls about it.

22 Q What was your understanding of  
23 your duties and responsibilities when you  
24 responded there?

25 MR. FERGUSON: Just answered it.

1 Timothy Marinaci

2 Do it, again.

3 A When I initially responded from  
4 Westbury, I was told that an Officer had been  
5 shot, and I was to go out and find out his  
6 condition and what had happened.

7 Q Did you do that?

8 A Which?

9 Q Just what you said -- what you  
10 were sent there to do?

11 A Respond and find the situation?

12 Q Yes.

13 A Yes.

14 Q When you entered the room, you  
15 said you don't recall if there was anyone  
16 posted outside DiLeonardo's room, right?

17 A Correct.

18 Q So, you don't recall having to  
19 identify yourself to gain entry to get into  
20 the room to speak to Officer DiLeonardo.

21 A Can you repeat the question?

22 Q You didn't have to identify  
23 yourself to any member of the Suffolk County  
24 Police Department to gain entry into the room  
25 to see DiLeonardo?

1 Timothy Marinaci

2 A To gain entry to the room, no.

3 Q Prior to entering that room, did  
4 you have to identify yourself to any member of  
5 the Suffolk County Police Department?

6 A Yes.

7 Q Who?

8 A I don't recall.

9 Q What did you say -- what did you  
10 say to them or they say to you?

11 A They asked me my name and my  
12 shield number and my car number, and they  
13 wrote it down.

14 Q Did they write it down on  
15 Plaintiff's 24, this scene log?

16 A I don't recall.

17 Q You saw them write the things  
18 down that are contained in this log -- you saw  
19 them -- ask you that and write it down, right?

20 A I did not see what he wrote.

21 Q You do know what he asked you,  
22 right?

23 A Yes.

24 Q According to this form, the  
25 recorder's name, rank, shield and command



1 Timothy Marinaci

2 is -- it looks likes Faya, correct?

3 A According to this form. I have  
4 no knowledge of it.

5 Q It says rank, PO. The person is  
6 that you spoke to; was it a patrol officer  
7 from Suffolk County?

8 A It was a police officer.

9 Q Did that conversation happen  
10 before you walked into the room?

11 A Yes.

12 Q When you went into the room --

13 MR. FERGUSON: The room --  
14 DiLeonardo's room?

15 Q DiLeonardo's room -- you said  
16 that you saw three people; you didn't speak to  
17 the nurse. Who if anyone did you speak to?

18 A I spoke to DiLeonardo and his  
19 girlfriend.

20 Q Who did you speak to first?

21 A DiLeonardo.

22 Q What was said?

23 A I asked him if he was okay.

24 Q What was his response?

25 A I don't remember his exact

1 Timothy Marinaci

2 response. But, he in general said he was  
3 okay.

4 Q What was said next?

5 A I explained to him that he was  
6 going to be treated and that there was going  
7 to be an investigation.

8 Q That's what you explained to him?

9 A More or less. I don't remember  
10 the exact conversation.

11 Q Tell me to the best of your  
12 ability what you explained to him?

13 A I explained to him that he was  
14 going to be treated by the hospital; that  
15 there was going to be an investigation.

16 Q Did he say anything else to you  
17 in response?

18 A Yes.

19 Q What did he say?

20 A I don't recall.

21 Q How long did you speak to him?

22 A No more than a minute.

23 Q After that conversation, what did  
24 you do?

25 A I spoke very briefly to

1 Timothy Marinaci

2 DiLeonardo's girlfriend.

3 Q When you spoke to DiLeonardo,  
4 tell me where you observed him. Was he lying  
5 down, sitting up?

6 A I believe he was sitting up.

7 Q Was he sitting in a chair or on a  
8 cot, a bed?

9 A I believe it was the bed or cot,  
10 whatever you would call it, in the emergency  
11 room.

12 Q How far were you from him when  
13 you had this conversation?

14 A Four to 5 feet.

15 Q What were your observations of  
16 him during this conversation?

17 A What type of observations?

18 Q What was your physical  
19 observation of him?

20 A He was of sitting on the end of  
21 the bed.

22 Q What if anything did you observe?  
23 How was he dressed?

24 A In civilian clothes.

25 Q Did you observe any physical

Timothy Marinaci

injuries?

A Yes.

Q What did you observe?

A The injuries that I listed on his paperwork.

Q Tell me what those were.

A I'd have to look at the paperwork to refresh my memory.

Q Didn't you look at them this morning?

MR. FERGUSON: Note my objection.

A I looked at them. I don't believe I looked at that part of those forms.

Q Was he bleeding when you looked at him?

A I believe there were -- I don't recall what the status of his treatment was if there were bandages on or not. I don't recall any obvious bleeding.

Q Did he appear to be in any physical distress as a result of the physical injury?

A I don't understand the question.

Q You said that you're an EMT?

1 Timothy Marinaci

2 A No, I'm not.

3 Q Didn't you say that you had  
4 training as an EMT?

5 MR. FERGUSON: That was  
6 twenty-eight years ago.  
7 Twenty-four years ago in 1986.

8 MR. GRANDINETTE: Thank you.

9 Q You've seen people who are  
10 physically injured?

11 A Yes.

12 Q Over the course of your life  
13 time?

14 A Yes.

15 Q You seen people in pain as a  
16 result of sustaining physical injury in your  
17 life time?

18 A Yes.

19 Q Did you observe Officer  
20 DiLeonardo to be in any physical distress as a  
21 result of the physical injury that evening?

22 A In the short time I was with him,  
23 he did not express anything about physical  
24 distress.

25 Q Was he crying? Was he moaning?

1 Timothy Marinaci

2 Did he give any outside indication that he was  
3 physically hurt?

4 A He did not give me any indication  
5 that he was physically hurt.

6 Q How about, emotionally; did you  
7 observe him to be in emotional distress?

8 A Yes.

9 Q What did you observe that lead  
10 you to that conclusion?

11 A It appeared that he had been or  
12 was about to cry -- had been crying or was  
13 about to cry.

14 Q Other than that, was there  
15 anything else?

16 A No.

17 Q Was it the manner of his speech  
18 that you led to you believe that he was about  
19 to cry, or was it the color of his eyes that  
20 led you to believe he was about to cry, or any  
21 other physical observation?

22 A Just his general demeanor based  
23 or my experience that he appeared he was going  
24 to cry.

25 Q Now, Officer DiLeonardo was

1 Timothy Marinaci

2 off-duty, right?

3 A At which point?

4 Q At the time of this event.

5 A Prior to the event, he was  
6 off-duty.

7 Q So he was in civilian clothes at  
8 the time, correct?

9 A Yes.

10 Q Did you ask him where he was  
11 prior to these events?

12 A No.

13 Q Did you observe the odor of  
14 alcohol on his breath when he was speaking to  
15 you?

16 A No.

17 Q Did you observe his manner of  
18 speech to be slurred in any manner?

19 A No.

20 Q Did you observe his eyes to be  
21 bloodshot as a result of the ingestion of  
22 alcohol?

23 A His eyes were bloodshot.

24 MR. FERGUSON: Note my objection.

25 A I don't know why his eyes were

1 Timothy Marinaci

2 bloodshot. He did appear to be crying.

3 Q So, his eyes were bloodshot?

4 A Yes.

5 Q Did you did you believe that his  
6 eyes were bloodshot as a result of crying?

7 A Yes.

8 Q You didn't see him cry?

9 A I don't recall.

10 Q Did you ask him if he had been  
11 crying and that's why his eyes were bloodshot?

12 A No.

13 Q Did you observe any indicia of  
14 intoxication or impairment as a result of the  
15 consumption of alcohol?

16 A No.

17 Q Did you make any inquiry about  
18 whether or not Officer DiLeonardo had been  
19 drinking prior to this incident?

20 A No.

21 Q After this one minute  
22 conversation with him, what did you do next?

23 A After the approximate one minute  
24 conversation, I spoke to his girlfriend.

25 Q What's her name?



1 Timothy Marinaci

2 A I don't know.

3 Q What does she look like?

4 A Female, white, dark hair,  
5 approximately 5'4"-5'6", in that range;  
6 wearing high boots.

7 Q Had you ever met her prior to  
8 this date?

9 A No.

10 Q How did you come to learn it was  
11 his girlfriend?

12 A I don't recall.

13 Q Who spoke first, you or her?

14 A I believe I did.

15 Q What was said?

16 A I asked her if she was okay.

17 Q What was her response?

18 A She said yes.

19 Q What if anything else did you ask  
20 her?

21 A Nothing.

22 Q What if anything else did she say  
23 to you?

24 A Okay.

25 Q How close were you to her when

1 Timothy Marinaci

2 you spoke?

3 A Probably about 5 to 6 feet.

4 Q Where was she in relation to

5 DiLeonardo?

6 A She was sitting in a chair

7 against the wall.

8 Q How long would you say your

9 conversation with her was?

10 A Less than a minute.

11 Q What did you do after that

12 conversation?

13 A I walked out of the treatment

14 room.

15 Q After leaving that treatment room

16 did you have any further discussion with

17 DiLeonardo or his girlfriend that evening?

18 A Yes.

19 Q When in relation to this first

20 meeting?

21 A Later that night.

22 Q How long, approximately?

23 A I don't recall.

24 Q What time did you leave the

25 hospital?

1 Timothy Marinaci

2 A I don't recall.

3 Q If you look at your memo book,  
4 would that refresh your recollection?

5 A No.

6 Q Let's try to backtrack. Look at  
7 your memo book and tell me what time you  
8 signed off?

9 A 12 o'clock.

10 Q When you left, did you notify  
11 your command that you were leaving?

12 A I don't recall.

13 Q If you did notify your command  
14 that would be reflected in your phone records  
15 or communication records to the Precinct?

16 A I don't know if it would be.

17 Q Well, if there's a communication  
18 between a car and your command, there's a  
19 record of that, correct, from communications?

20 A There is a recording. I don't  
21 know how long it is maintained.

22 Q Let me ask you this: Did you  
23 leave the hospital prior to DiLeonardo and  
24 Bienz?

25 A I don't recall.

1 Timothy Marinaci

2 Q The second conversation that you  
3 had with DiLeonardo; where was it?

4 A It was in the emergency room.

5 Q Where within the emergency room?

6 A I don't recall.

7 Q Who was present?

8 A Myself, Officer DiLeonardo, and  
9 DiLeonardo's attorney.

10 Q Who was DiLeonardo's attorney?

11 A Willard Miller.

12 Q You said you don't recall where  
13 it took place?

14 A No, that's not what I said.

15 Q You said it was in the emergency  
16 room. But, you're not sure where within the  
17 emergency room?

18 A Correct.

19 Q Could it have been in the same  
20 room, or was it in a different location?

21 A It was a different location.

22 Q Other than you, DiLeonardo, and  
23 his attorney, was there anyone else present  
24 during this conversation?

25 A What do you mean by "present"?

1 Timothy Marinaci

2 Q In the immediate vicinity.

3 A The only people involved in that  
4 conversation were myself, Officer DiLeonardo,  
5 and his attorney.

6 Q What if anything did you say to  
7 DiLeonardo during this second conversation?

8 A I asked him questions needed to  
9 fill out the firearms discharge report.

10 Q He answered -- he responded to  
11 your questions?

12 A I don't recall if he responded or  
13 his attorney.

14 Q Is there a time on that form; do  
15 you know?

16 A Time for what?

17 Q There is.

18 I want to get back to you walking  
19 out of DiLeonardo's room. Where did you  
20 go next?

21 A When I walked out of the  
22 treatment room the first time?

23 Q Yes.

24 A I went to look for Officer Bienz.

25 Q Now, based upon your explanation

1 Timothy Marinaci

2 of what your conversation was with DiLeonardo,  
3 you never asked him if he was shot, right?

4 A No.

5 Q And he never said to you that he  
6 was of shot, right?

7 A Correct.

8 Q You never had a conversation with  
9 this Officer who took down your information  
10 other than your name, your rank, your shield  
11 number, right?

12 A I never said that.

13 Q Did you have a conversation with  
14 Faya?

15 A Yes.

16 Q You did, now, have a conversation  
17 with him?

18 MR. FERGUSON: What do you mean  
19 "You did now"?

20 Objection to the form of the  
21 question.

22 Q What was his conversation with  
23 Faya?

24 A I recall telling an officer -- I  
25 don't know if it was Faya -- my information.

1 Timothy Marinaci

2 Q Other than that, you didn't have  
3 any conversation with him, correct?

4 A I didn't say that.

5 Q Well, what conversation did you  
6 have with him, then?

7 A With Faya?

8 Q Yes.

9 A I don't know who Faya is.

10 Q With the Officer that you spoke  
11 to; what conversation did you have with him?

12 A I spoke to several officers.

13 Q I thought you said that you  
14 checked in and then you walked into  
15 DiLeonardo's room.

16 MR. FERGUSON: Note my objection.  
17 He responded to the questions that you  
18 asked each and every time. Note my  
19 objection.

20 Q Now, what are you saying that you  
21 communicated with more officers from Suffolk  
22 County Police Department prior to going into  
23 DiLeonardo's room?

24 MR. FERGUSON: Note my objection  
25 to the form of the question.

1 Timothy Marinaci

2 A When you say "more," what do you  
3 mean by more.

4 Q More than one.

5 A Yes.

6 Q When?

7 A Exact time?

8 Q Let's start, again.

9 The emergency room doors open.  
10 You said somebody asked you who you were.

11 A No.

12 Q Well, then explain it to me.

13 What were the circumstances that  
14 you met anyone from law enforcement and what  
15 were your conversations with them prior to  
16 walking into DiLeonardo's room.

17 A As I approached the emergency  
18 room -- the outside of the emergency room --  
19 there were several Suffolk police officers in  
20 that general vicinity.

21 Q Okay. That's nice that there  
22 were several officers.

23 But, who did you speak to?

24 A One of the officers.

25 Q Who was it?



1 Timothy Marinaci

2 A I don't recall.

3 Q Was it a patrolman?

4 A I believe so.

5 Q He was in a uniform?

6 A Yes.

7 Q Is this the gentleman that asked  
8 you for your information?

9 A No.

10 Q Who was had this gentleman?

11 A It was a Suffolk County police  
12 officer.

13 Q What was your conversation with  
14 him?

15 A I asked him if Officer DiLeonardo  
16 and Bienz are inside?

17 Q Okay. What was his response to  
18 you?

19 A Yes.

20 Q What if anything did you say in  
21 response to that?

22 A I don't recall.

23 Q What if anything did he say to  
24 you?

25 A I don't recall.

1 Timothy Marinaci

2 Q What did you do next?

3 A I believe the next thing I did  
4 was walk to the cab.

5 Q Walk to where?

6 A Towards the cab.

7 Q Where was the cab?

8 A Parked near the doors of the  
9 emergency room.

10 Q Earlier, I asked you if you saw a  
11 cab by the emergency room taped off with  
12 police tape; you remember that question?

13 MR. FERGUSON: Note my objection.

14 Q Do you remember that question?

15 MR. FERGUSON: The record will  
16 reflect the questions you asked and the  
17 answer that he gave. This is not a  
18 contest. You have a question; ask a  
19 question.

20 Q After your conversation with this  
21 patrolman, you walked now to a cab within the  
22 parking lot of the emergency room?

23 A No, at the ambulance discharge  
24 area of the emergency room.

25 Q What did you do as you walk --

1 Timothy Marinaci

2 what do you do -- you walk up and look at the  
3 door?

4 A Yes.

5 Q How long did you look at the car?  
6 Did you go in the car, walk around the car,  
7 speak to anybody about the car?

8 MR. FERGUSON: That's 4 or 5  
9 questions.

10 MR. GRANDINETTE: It is.

11 Q What did you do with respect to  
12 the car?

13 A I looked at it.

14 Q Again, did you walk around the  
15 entire car? Did you go in the car? What do  
16 you mean you looked at it?

17 A I don't recall if I walked around  
18 the entire car. I walked up to the car and I  
19 looked in it.

20 Q What side of the car?

21 A Driver's side and I believe the  
22 front.

23 Q Did you observe there to be  
24 bullet holes in the windshield?

25 A Yes.

1 Timothy Marinaci

2 Q Did you observe there to be blood  
3 on the driver's side door, seat, and  
4 floorboard?

5 MR. FERGUSON: Floorboard, you  
6 said?

7 MR. GRANDINETTE: Floorboard.

8 A There was blood inside the  
9 vehicle. I don't recall exactly where it was.

10 Q Did you observe there to be a gun  
11 in the back driver's side back seat?

12 A On the seat, no.

13 Q Did you observe there to be  
14 shattered glass in the driver's side window of  
15 the cab to be broken?

16 A Yes.

17 Q How long did you, physically,  
18 observe the car?

19 A I don't recall.

20 Q Approximately?

21 A Approximately, a few minutes.

22 Q What does that mean; five  
23 minutes, 10 minutes, 2 minutes?

24 A I don't recall an exact amount of  
25 time. I would say approximately 2 to

1 Timothy Marinaci

2 3 minutes.

3 Q During your observations of the  
4 car when you were looking at it, did you speak  
5 to any member of the Suffolk County Police  
6 Department?

7 A While I was looking at the car, I  
8 don't believe so.

9 Q I'm going to show you a series of  
10 photographs. Let's start with 949.

11 MR. FERGUSON: Is that marked as  
12 an exhibit?

13 MR. GRANDINETTE: It is, from the  
14 IAU report.

15 MR. FERGUSON: Not marked as an  
16 exhibit.

17 MR. GRANDINETTE: Right.

18 I'm going to mark the whole IAU  
19 report, part 1, as exhibit 25.

20 MR. FERGUSON: If you're going to  
21 mark it as 25 as part 1, you're going to  
22 have to include some page numbers.

23 MR. GRANDINETTE: I will.

24 Part 1 is through Bates stamp  
25 number --

1 Timothy Marinaci

2 MR. FERGUSON: There are no Bates  
3 stamps on these documents.

4 MR. GRANDINETTE: 350.

5 MR. FERGUSON: Exhibit 25 is an  
6 IAU report from page 1 to 350?

7 MR. GRANDINETTE: Yes. This is  
8 your IAB report.

9 MR. FERGUSON: Not mine.

10 MR. GRANDINETTE: I'm gong to  
11 give you a duplicate copy.

12 Q Now, while your attorney looking  
13 at that, I'm going to continue asking you  
14 questions.

15 Do you recognize that photograph  
16 949 to be the cab that you observed that  
17 night?

18 A Yes.

19 Q I'm going to show you a  
20 photograph 953; do you recognize that to be  
21 the front passenger door of the car with  
22 broken glass and blood stains on the front  
23 seat, floorboard and -- front door well of the  
24 Deboro taxi?

25 MR. FERGUSON: Note my objection

1 Timothy Marinaci

2 to using documents that are not marked  
3 as exhibits and showing them to a  
4 witness and getting answers from the  
5 witness with something that is not  
6 marked as an exhibit.

7 If you're going to show him  
8 photographs, they should be marked as  
9 exhibits because we don't know if what  
10 you're -- you have a stamp on here 949  
11 or 953. This is just the top of a piece  
12 of paper. We don't know if there's any  
13 uniformity to this.

14 MR. GRANDINETTE: We do. This is  
15 the discovery that Nassau County  
16 provided to me. Here's part 2 and 3 of  
17 the IAB report. We'll do it right from  
18 this because it's a marked exhibit.

19 MR. FERGUSON: I'm saying if  
20 you're going to use photographs you  
21 should mark them as exhibits.

22 MR. GRANDINETTE: Mike, I'm not  
23 going to independently mark --

24 MR. FERGUSON: You should. I  
25 want the record to reflect that I'm

1 Timothy Marinaci

2 going to object.

3 MR. GRANDINETTE: You can object.

4 You see 949?

5 MR. FERGUSON: Same objection.

6 It's not marked.

7 MR. GRANDINETTE: It's part of an  
8 exhibit.

9 MR. FERGUSON: Same objection.  
10 It's not marked.

11 MR. GRANDINETTE: Off the record.

12 (Whereupon, there was a  
13 discussion off the record.)

14 Q You see 949?

15 MR. FERGUSON: Same objection.  
16 It's not marked as an exhibit. It  
17 should be marked.

18 Q Do you recognize that as being  
19 the cab.

20 A Yes.

21 Q Now, let's look at photograph  
22 953.

23 MR. FERGUSON: Same objection.

24 Q Contain in the IAB report  
25 provided to ME from Nassau County. Do you



Timothy Marinaci

recognize that photograph?

MR. FERGUSON: Same objection.

Q To be the front driver's side door?

MR. FERGUSON: Same objection.

If you're showing the witness a photograph it should be marked as an exhibit.

MR. GRANDINETTE: Could you mark that please as 25?

MR. FERGUSON: You've already marked 25.

MR. GRANDINETTE: Twenty-six.

Q I show you what has been marked as Plaintiff's 25 and 26 -- 26, first. Take a look at 26. Do you recognize that photograph?

A Yes.

Q What do you recognize it to be?

A The cab with the driver's side door open.

Q With glass fragments on the seat, blood stains on the seat and in the door jamb?

A Yes.

Q Is that what you observed -- is

1 Timothy Marinaci

2 that a fair and accurate representation of  
3 what you observed that night?

4 A I saw it with the door closed.

5 Q Take a look at Exhibit 27; do you  
6 recognize that photograph?

7 A Yes.

8 Q What do you recognize that to be?

9 A The back seat of the cab.

10 Q Can you tell us if there is a gun  
11 in the back seat behind the driver's side?

12 A Yes. There appears to be.

13 Q Is that a fair and accurate  
14 representation of what you observed back on  
15 February 27th, 2011?

16 A I saw it with the door closed.

17 Q You didn't see the gun  
18 behind the passenger seat as depicted in that  
19 picture?

20 A I saw the gun. Not as depicted  
21 in that picture, no.

22 Q You saw the gun later that night?

23 A I saw it, then, when I first  
24 looked at the car.

25 Q You saw it in the car?

1 Timothy Marinaci

2 A Yes.

3 Q Even though the door was closed?

4 A Yes.

5 Q You looked through the glass and  
6 you saw the gun sitting there?

7 A Yes.

8 Q Did you ever touch the car, open  
9 the car, or do anything inside the car?

10 A No.

11 Q Did you ever speak to any member  
12 of the Suffolk County Police Department  
13 pertaining to that car?

14 A I don't recall.

15 Q Did you ever speak to anybody  
16 that night as you were looking at the car or  
17 immediately after you looked at the car?

18 A Did I speak to anyone?

19 Q Yes.

20 A Yes.

21 Q Who?

22 A Suffolk police officer.

23 Q Who?

24 A I don't know the name.

25 Q What this the same Suffolk police

1 Timothy Marinaci

2 officer whose named you don't know that you  
3 mentioned, earlier?

4 MR. FERGUSON: Note my objection.

5 A Which Officer are you talking  
6 about?

7 Q You get out of your car. You  
8 said you had a conversation with a patrolman,  
9 correct?

10 A A police officer.

11 Q Police officer/patrolman; same  
12 thing, no?

13 A No.

14 Q You had the conversation where  
15 you identified yourself and you gave him some  
16 information, correct?

17 A No.

18 Q Didn't you say that you met a  
19 patrol Officer and you gave him your name,  
20 your shield, your command, and he wrote that  
21 down?

22 A I said I met a police officer and  
23 I gave him my information.

24 Q You said he wrote it down, right?

25 A He wrote something down.

1 Timothy Marinaci

2 Q From there, you told me that you  
3 walked over to the car, correct?

4 A No.

5 Q What did you do next?

6 A At which point?

7 Q After you spoke to the Officer.

8 A Which Officer?

9 MR. GRANDINETTE: I'll tell you  
10 what we're going to do. We're going to  
11 break. We're going to come back. I'm  
12 not putting up with this.

13 MR. FERGUSON: You can break if  
14 you want.

15 MR. GRANDINETTE: I'm calling the  
16 magistrate, right now. This is absolute  
17 bullshit, Mike.

18 MR. FERGUSON: He's answering  
19 your questions. Your questions aren't  
20 clear.

21 MR. GRANDINETTE: Let's try it,  
22 again.

23 MR. FERGUSON: You got to talk  
24 about --

25 MR. GRANDINETTE: Mike, don't

1 Timothy Marinaci

2 tell me what I got to talk about.

3 MR. FERGUSON: Okay.

4 MR. GRANDINETTE: I've had it.

5 MR. FERGUSON: I don't care what  
6 you had. Your questions aren't clear,  
7 and the record will reflect that.

8 Q Officer, after you got to the  
9 emergency room; you got out of your car; you  
10 spoke to a Suffolk County patrol Officer,  
11 correct?

12 A I don't know if he is patrol  
13 officer. He was a police officer.

14 Q Tell me your conversation, again,  
15 with him.

16 A I asked him if Officer DiLeonardo  
17 and Bienz were inside.

18 Q What did he say to you?

19 A He said "Yes."

20 Q What if anything did you say to  
21 him after that?

22 MR. FERGUSON: Asked and  
23 answered.

24 A I don't know.

25 Q What did you do next?

1 Timothy Marinaci

2 A I walked to the cab.

3 Q After you observed the cab for  
4 several minutes as you just testified to, who  
5 did you speak to if anyone during that time?

6 A After I looked at the cab?

7 Q Yes.

8 A Suffolk County police officer.

9 Q Who was he?

10 A I don't know.

11 Q Describe him?

12 A I don't recall.

13 Q Was he the same Officer or a  
14 different Officer?

15 A A different Officer.

16 Q What did you talk to him about?  
17 Where were you when you talked to him?

18 MR. FERGUSON: Which question do  
19 you want answered?

20 A Which question?

21 Q Where were you when you spoke to  
22 him?

23 A I had walked from the cab towards  
24 the doors of the emergency room.

25 Q Where were you when you spoke to

Timothy Marinaci

him?

A Somewhere between the cab and the doors of the emergency room.

Q What did he look like?

A I don't recall.

Q Who spoke first?

A I don't recall.

Q What did you say to him and what did he say to you?

A At some point, he asked me for my information.

Q What did you tell him when he asked you for your information?

A I gave it to him.

Q What information did you give to him?

A My name, my shield number, and my car number.

Q You're saying him; was it a man?

A He was a male police officer.

Q Can you give me any other description other than he was a male police officer?

A He was in uniform.



1 Timothy Marinaci

2 Q How long was the conversation?

3 A Very brief.

4 Q Other than giving him your  
5 information, did you provide him with any  
6 other information?

7 A I don't recall.

8 Q Did he give you any substantive  
9 information regarding what had transpired?

10 A I don't recall.

11 Q Did you ask?

12 A I don't recall.

13 Q Do you know if he had any factual  
14 basis to provide any substantive information?

15 MR. FERGUSON: Note my objection.

16 A I don't know.

17 Q How long was that conversation  
18 from start to finish?

19 A Very brief.

20 Q What does that mean?

21 MR. FERGUSON: You're shouting at  
22 the witness. Just ask the question.

23 Q What does that mean?

24 MR. FERGUSON: Just ask a  
25 question.

1 Timothy Marinaci

2 A Less than a minute.

3 Q What did you do next?

4 A I believe I walked into the  
5 emergency room.

6 Q You're sure? Or did you do  
7 something else first?

8 A To the best of my recollection.

9 Q You walked into the emergency  
10 room?

11 A To the to the best of my  
12 recollection.

13 Q You breached the doorway of the  
14 emergency room and you entered it, correct?

15 A To the best of my recollection.

16 Q I want you to stop there at that  
17 point.

18 How long had you been on the  
19 hospital premises?

20 A I don't know.

21 Q Approximately?

22 A I don't recall.

23 Q Can you give me an estimate; a  
24 minute, five minutes, ten minutes?

25 A I don't recall.

1 Timothy Marinaci

2 Q You had a very brief conversation  
3 with the one Officer, right?

4 A Yes.

5 Q Under a minute, first Officer?

6 A I don't recall the time frame on  
7 the first officer.

8 Q Do you have any idea?

9 A It was brief.

10 Q Under a minute?

11 A I don't recall.

12 Q Then you walked over to the cab  
13 and you looked at the cab for a couple of  
14 minutes, right?

15 A Approximately.

16 Q Then you walked back and you  
17 stopped before you entered the emergency room  
18 and you had another conversation with the  
19 second patrolman, right?

20 A Police officer.

21 Q Police officer, right?

22 A Yes.

23 Q And you said that that  
24 conversation was under a minute, right?

25 A Approximately.

1 Timothy Marinaci

2 Q Then you walked into the  
3 emergency room, correct?

4 A Yes.

5 Q Is there a reason why you can't  
6 give me an estimate based you upon those facts  
7 of approximately how long you were in the  
8 parking lot?

9 MR. FERGUSON: Objection to the  
10 question. You can answer.

11 A Could you repeat the question?

12 Q Yes. Is there a reason -- given  
13 those facts -- that you can't give me an  
14 estimate?

15 MR. FERGUSON: Just ask a  
16 question. Don't shout at the witness.

17 MR. GRANDINETTE: I'm making a  
18 point that I'm being obstructed at this  
19 deposition, Mike.

20 MR. FERGUSON: You're not being  
21 obstructed. The record will show that.

22 Q You can't give me an estimate?

23 A I don't recall how long it was.

24 Q Can you give an estimate?

25 MR. FERGUSON: He just said three

1 Timothy Marinaci

2 times he doesn't recall.

3 Q After you breached the doors,  
4 what did you do next?

5 A I looked for either Officer  
6 DiLeonardo or Bienz.

7 Q How did you look for them?

8 A I walked through the emergency  
9 room.

10 Q Did you speak to anybody?

11 A Yes.

12 Q Who did you speak in the  
13 emergency room?

14 A Officer DiLeonardo.

15 Q Prior to speaking to DiLeonardo,  
16 did you speak to anybody in the emergency room  
17 to try to ascertain the location of the men  
18 that you were there to look for and speak to?

19 A I don't recall.

20 Q How long did it take you to find  
21 Officer DiLeonardo?

22 A I don't recall.

23 Q When you found Officer DiLeonardo  
24 in this room you said you went in and you  
25 testified about your conversation, correct?

1 Timothy Marinaci

2 MR. FERGUSON: He did.

3 Q So, in between the time that you  
4 entered and the time you found DiLeonardo, is  
5 it your testimony you don't recall having any  
6 conversation with any person inside the ER?

7 A I don't recall having any  
8 conversation with anyone in the ER.

9 Q So, if you did it wasn't of  
10 anything of substance, correct?

11 A I don't recall having any  
12 conversation.

13 Q Now, you said that you had these  
14 brief conversations with DiLeonardo and his  
15 girlfriend that lasted about a minute and you  
16 walked out, right?

17 MR. FERGUSON: He didn't say two  
18 conversations lasted about a minute.  
19 But, he did say he had conversations  
20 with both of them.

21 MR. GRANDINETTE: Okay. I'm not  
22 asking you. But, thank you for the  
23 commentary.

24 MR. FERGUSON: Your question is  
25 improper.

1 Timothy Marinaci

2 MR. GRANDINETTE: Then object.

3 Then just object. I don't want a  
4 speech.

5 MR. FERGUSON: You're not yelling  
6 at people, here.

7 MR. GRANDINETTE: I'm yelling at  
8 you.

9 MR. FERGUSON: You're yelling  
10 because you don't know how to ask a  
11 question.

12 Q Did you, sir, after you walked  
13 out of that hospital room, you said that it  
14 was your intention to look for Bienz, right?

15 A Yes.

16 Q Is there a reason why you didn't  
17 ask Officer DiLeonardo about being shot?

18 A Yes.

19 Q Why?

20 A I had been told that he wasn't  
21 shot.

22 Q Who told you that?

23 A I believe it was a Suffolk County  
24 detective.

25 Q So, when did you speak to a the

1 Timothy Marinaci  
2 Suffolk County detective prior to walking into  
3 the room based upon your previous  
4 conversation?

5 MR. FERGUSON: Based on his  
6 previous conversation? I don't  
7 understand.

8 Q Based upon your previous  
9 testimony that you didn't speak to anybody  
10 other than these two patrolmen, when did you  
11 speak to a Suffolk County detective?

12 A I spoke to him while outside the  
13 emergency room. I don't believe -- I didn't  
14 speak to anyone else out there.

15 Q When did you speak to the Suffolk  
16 County detective?

17 A It was before I gave my  
18 information to the Officer.

19 Q So, when I asked you when you  
20 arrived you got out of the car and the first  
21 person you spoke to was this police officer,  
22 that's inaccurate?

23 MR. FERGUSON: Objection. Just  
24 ask your question. What is your  
25 question?



1 Timothy Marinaci

2 Q When you got out of your car,  
3 who's the first person that you spoke to?

4 A I believe it was the police  
5 officer.

6 Q Did there come a point in time  
7 that you spoke to a detective from Suffolk  
8 County?

9 A Yes.

10 Q When was that in relation to what  
11 you testified to about your activities outside  
12 the emergency room?

13 A I don't recall if it was before I  
14 looked at the car or after I looked at the  
15 car.

16 Q What did you say to the detective  
17 and what did he say to you?

18 A I don't remember the exact  
19 conversation.

20 Q Tell me what you recall in sum  
21 and substance of the conversation.

22 A We introduced ourselves to each  
23 other.

24 Q Who did he introduce himself as?

25 A I don't recall his name.

1 Timothy Marinaci

2 Q Did you get his name? Did you  
3 get a card?

4 A I did have a card that night.

5 Q From him?

6 A Yes.

7 Q Where is it?

8 A I lost it.

9 Q How did you lose it?

10 A I don't know how I lost it.

11 Q Where did you put it after you  
12 got it?

13 A I don't recall.

14 Q How many times have you responded  
15 to a hospital believing that one of your  
16 subordinates had been shot?

17 A That was the first time.

18 Q In your lengthy career at this  
19 point, right?

20 A Yes.

21 Q You don't know who you spoke to,  
22 but you believe it was a Suffolk County  
23 detective?

24 A I believe it was, yes.

25 Q You don't know what you said to

1 Timothy Marinaci

2 him or what he said to you, right?

3 A I said I don't remember the exact  
4 conversation.

5 Q Which means you don't remember  
6 what you said to him or what he said to you,  
7 right?

8 A The exact wording, no.

9 Q Tell me the summary of the  
10 conversation, then?

11 A We introduced ourselves to each  
12 other.

13 Q Yes.

14 A He explained to me what he knew  
15 of the incident so far.

16 Q What was that?

17 A That there was some type of  
18 confrontation and that the cab driver had been  
19 shot and that's it.

20 Q Did you ask him any further  
21 questions?

22 A I believe so.

23 Q What did you ask him?

24 A I asked him if any of my officers  
25 had been shot.

1 Timothy Marinaci

2 Q What did he say?

3 A I believe he said "No."

4 Q You're not sure about that?

5 A I don't know his exact wording,  
6 but he indicated no.

7 Q Wouldn't that be something that  
8 you wanted to know immediately whether or not  
9 DiLeonardo or Bienz had been shot?

10 A Yes.

11 Q He provided you that information  
12 -- that's what you're claiming now?

13 MR. FERGUSON: Objection to the  
14 form of the question about what you're  
15 claiming now. You can ask him about his  
16 recollection.

17 Q Is that what you're saying; that  
18 this detective told you that neither  
19 DiLeonardo nor Bienz were shot?

20 A Yes.

21 Q Did he tell you who shot the cab  
22 driver?

23 A I don't recall.

24 Q Did you ask him any factual  
25 details?

1 Timothy Marinaci

2 A No.

3 Q Did you ask him his command?

4 A I believe when he introduced  
5 himself he told me he was from the First  
6 Squad -- excuse me, Second Squad.

7 Q Did you ask him his role in the  
8 investigation?

9 A I don't recall.

10 Q Did you ask him how he knows any  
11 of the underlying facts?

12 A I don't recall.

13 Q Did you ask him if he interviewed  
14 either one of your officers?

15 A I don't recall.

16 Q Did he ask you or did he write  
17 down any of your information?

18 A I don't recall.

19 Q How long was your conversation  
20 with this man?

21 A Brief.

22 Q What's brief mean?

23 MR. FERGUSON: You could ask a  
24 question, but don't shout at the  
25 witness.

1 Timothy Marinaci

2 Q What does brief mean?

3 MR. GRANDINETTE: I'm not  
4 shouting at anybody.

5 MR. FERGUSON: You certainly are  
6 shouting.

7 Q What does brief mean?

8 A Less than two minutes.

9 Q So, if I understand your  
10 testimony correctly you spoke with three  
11 different people outside the emergency room,  
12 correct?

13 A Yes.

14 Q Anybody else outside the  
15 emergency room?

16 A I don't believe so.

17 Q The conversations lasted in total  
18 under four minutes, approximately?

19 A I don't recall how long the  
20 conversations lasted.

21 Q After you enter the emergency  
22 room you said you went into DiLeonardo's room  
23 and you don't recall speaking to anybody  
24 inside the emergency room prior to going into  
25 DiLeonardo's room, right?

1 Timothy Marinaci

2 A Correct.

3 Q How long are you in Officer  
4 DiLeonardo's room before you exit?

5 MR. FERGUSON: It's been asked  
6 and answered three times.

7 A Approximately two minutes.

8 Q Now, you're out and you said your  
9 objective was to find Officer Bienz, right?

10 A Yes.

11 Q What did you do to accomplish  
12 that goal?

13 A I don't recall if I asked anyone  
14 or just walked around the emergency room.

15 Q Did anybody try to stop you from  
16 just walking around the ER -- like a nurse or  
17 a doctor say "Excuse me, can I help you," or  
18 were you walking around poking your head in  
19 the room?

20 A No one tried to stop me, and I  
21 wasn't poking my head into rooms.

22 Q How long did it take you to  
23 locate Bienz?

24 A I don't recall.

25 Q Did you eventually find him?

1 Timothy Marinaci

2 A Yes.

3 Q Where did you find him?

4 A In a different area of the  
5 emergency room.

6 Q How far away from where  
7 DiLeonardo was?

8 A I don't recall.

9 Q When you found him, who was he  
10 with?

11 A His wife, and there was a  
12 hospital employee there when I initially found  
13 him.

14 Q Who was the hospital employee?

15 A I don't know.

16 Q What did the hospital employee  
17 look like?

18 A It was a male white in a hospital  
19 nursing-type uniform.

20 Q Was the employee performing any  
21 job function in relation to Bienz?

22 A I don't know -- he was doing  
23 something. I don't know what it was.

24 Q What did you observe him do?

25 A He was not doing anything



1 Timothy Marinaci

2 directly to Officer Bienz.

3 Q What was he doing?

4 A I don't know.

5 Q Were you in a room?

6 A No.

7 Q Where were you, then?

8 A In the emergency room.

9 Q Where within the emergency room?

10 Describe it for me.

11 A A treatment area.

12 Q Describe the treatment area?

13 A It's an open area in the  
14 emergency room with several beds, each one  
15 separated by a curtain.

16 Q Were the curtains open or closed  
17 with respect to where Bienz was?

18 A I believe the curtains between  
19 the beds were closed.

20 Q How did you come to locate him?

21 MR. FERGUSON: Didn't you just go  
22 through this?

23 MR. GRANDINETTE: No.

24 A What's the question?

25 Q How did you come to locate him if

Timothy Marinaci

the curtains were closed?

A The only curtains that were closed were the ones between the beds.

Q When you located him, had you saw a male in a uniform; he was doing work near Bienz, but not on Bienz, not performing medical treatment?

MR. FERGUSON: How would he know that? What question are you asking, now?

Q When you met Bienz, did you ever speak to the male employee that was near Bienz?

A I don't believe so.

Q Did he ever say anything to you?

A I don't believe so.

Q Tell me what you did after you found Bienz.

A I spoke to him.

Q What did you say to him?

A I asked him if he was okay.

Q What did he say to you?

A I believe he said words to the effect of "No, I got to run over by a car."

1 Timothy Marinaci

2 Q Anything else?

3 A Yes.

4 Q You don't remember what you asked  
5 him in response to "No, I got hit by a car"?

6 MR. FERGUSON: That question  
7 hasn't been asked. What question are  
8 you asking, now?

9 Q Let me go back a second.  
10 Did you ask him "Are you okay?"  
11 And his response was "No, I got hit by a car"?

12 MR. FERGUSON: Got run over by a  
13 car. He said words to that effect.

14 Q Is that what happened?

15 A Yes.

16 Q What if anything did you say  
17 next?

18 A I believe the next thing I asked  
19 him is if he had his gun on him.

20 Q What was his response?

21 A He said "No."

22 Q As a off-duty Nassau County  
23 Police Officer, is he responsible to carry a  
24 firearm off-duty?

25 MR. FERGUSON: Is he responsible

1 Timothy Marinaci

2 to?

3 MR. GRANDINETTE: Yes.

4 A What does that mean  
5 "responsible"?

6 Q Is it part of his job function to  
7 carry an off-duty weapon?

8 MR. FERGUSON: You mean is he  
9 required to? I don't understand this  
10 question.

11 Q Is he required to carry a gun  
12 off-duty?

13 A Not required, no.

14 Q So, he tells you he doesn't have  
15 a gun. What do you ask him next?

16 A I don't believe I asked him  
17 anything else next.

18 Q Were there any other  
19 conversations between you and Bienz?

20 A Yes.

21 Q What was that?

22 A After I asked him about the gun,  
23 I told him just to relax; he's going to be  
24 taken care of. And that was it.

25 Q When you say he's going to be

1 Timothy Marinaci

2 taken care of, what do you mean?

3 A Doctors and nurses were treating  
4 him.

5 Q Is there any reason you didn't  
6 ask him about any of the substantive facts  
7 surrounding the incident?

8 A Yes.

9 Q Why?

10 A I was the caretaker supervisor.

11 Q What does that mean?

12 A At a scene where an officer used  
13 deadly physical force, a caretaker supervisor  
14 is assigned to ensure that he is cared for,  
15 emotionally, physically, medically.

16 Q At first, originally, I thought  
17 in the deposition you said you weren't part of  
18 the Deadly Physical Force Response Team.

19 A Correct.

20 Q Is it your understanding that a  
21 caretaker supervisor is part of the Deadly  
22 Physical Force Response Team under the  
23 administrative guidelines that you referred  
24 to?

25 A The caretaker supervisor is not

1 Timothy Marinaci

2 part of the Deadly Physical Force Response  
3 Team.

4 Q When you originally responded, I  
5 thought you said that Sergeant Papa asked you  
6 to respond and find out what happened, right?

7 A Yes.

8 Q Is it your testimony that you  
9 intentionally didn't ask either DiLeonardo or  
10 Bienz about the underlying substantive facts  
11 because it was just your duty to be the  
12 caretaker supervisor?

13 MR. FERGUSON: Objection.

14 A I had no investigative  
15 responsibilities.

16 Q Assuming that you have zero  
17 investigative responsibilities, my question  
18 is, then, did you intentionally not ask  
19 DiLeonardo or Bienz about any of the  
20 underlying substantive facts?

21 MR. FERGUSON: Objection. You  
22 can answer.

23 A I'm not sure what you mean by  
24 "intentionally."

25 Q Intentionally means your

1 Timothy Marinaci  
2 conscious objective was to not inquire about  
3 what happened surrounding the underlying facts  
4 preceding and including the shooting?

5 MR. FERGUSON: Note my objection.

6 If you understand the question,  
7 you can answer it.

8 A My intention was to ensure that  
9 they were cared for, as I stated before, as a  
10 caretaker supervisor.

11 Q I understand that.

12 Do you make a conscious objective  
13 decision not to ask them any questions about  
14 the underlying facts?

15 MR. FERGUSON: Note my objection.

16 This doesn't make any sense. He is not  
17 -- he made a conscious decision not to  
18 fire his gun in the air. One has  
19 nothing to do with the other.

20 MR. GRANDINETTE: Mike, you can  
21 note your objection.

22 MR. FERGUSON: I'm trying to make  
23 you understand.

24 MR. GRANDINETTE: I don't need  
25 your help.

1 Timothy Marinaci

2 MR. FERGUSON: He had no role to  
3 do it.

4 MR. GRANDINETTE: I don't need  
5 your help.

6 MR. FERGUSON: I don't care  
7 whether you need the help. My objection  
8 is on the record.

9 Q Is it your testimony, sir, that  
10 you intentionally did not inquire about the  
11 underlying facts of what happened because it  
12 was not your responsibility to do so?

13 A My responsibility was to be the  
14 caretaker supervisor, and I did that job.

15 Q As a result of your job  
16 assignment, did you specifically not inquire  
17 about the underlying facts?

18 MR. FERGUSON: Note my objection.

19 Q Do you understand the question?

20 A Yes.

21 Q Okay. So, was it your intent not  
22 to inquire about the underlying facts of what  
23 happened because you were the caretaker  
24 supervisor?

25 A It was my intent to be the



1 Timothy Marinaci

2 caretaker supervisor.

3 Q Was it your intent not to inquire  
4 -- did you intentionally not inquire about the  
5 underlying event?

6 MR. FERGUSON: Objection.

7 A It was my intent to be the  
8 caretaker supervisor.

9 Q You had worked with these guys  
10 for five years, right? About?

11 A No.

12 Q From 07 to now February of 2011,  
13 3-4 years?

14 A No.

15 Q You respond to a scene, you say,  
16 to a hospital -- your first ever occasion  
17 where there's at least you believe an Officer  
18 may have been shot, right?

19 A Yes.

20 Q You learn that one of your  
21 officers shot a cabdriver, right?

22 A Yes.

23 Q You never asked either guy what  
24 happened?

25 MR. FERGUSON: Just answer yes or

1 Timothy Marinaci

2 no.

3 Q Is that your testimony?

4 MR. FERGUSON: Just answer yes or

5 no.

6 A I did not ask either one what  
7 happened.

8 Q They never told you, "Sarge, you  
9 wouldn't believe what happened," and then  
10 explained it to you, or words to that effect?

11 A No.

12 Q You were the first, to your  
13 knowledge, Nassau County Police Officer at  
14 Huntington Hospital who spoke to both men,  
15 correct?

16 A Yes.

17 Q It's your testimony that neither  
18 man said a word about the underlying facts of  
19 what happened to you when you had  
20 conversations with them?

21 A Correct.

22 Q Now, how long was this  
23 conversation with Bienz -- how long did it  
24 take place?

25 A I don't recall exactly.

1 Timothy Marinaci

2 Q Approximately?

3 A Approximately a minute.

4 Q How far were you from him?

5 A I was very close.

6 Q What does that mean?

7 A Within a foot or two.

8 Q During that minute conversation  
9 when you were a foot or two apart, did you  
10 observe the odor of alcohol on his breath?

11 A No.

12 Q Did he have slurred speech?

13 A No.

14 Q Did you observe whether or not he  
15 had bloodshot eyes?

16 A I had trouble seeing his eyes at  
17 that point.

18 Q Why?

19 A He was laying on his back with a  
20 neck brace on a backboard.

21 Q Did you observe any indicia of  
22 intoxication?

23 A No.

24 Q So, did you inquire where he had  
25 been prior to these events?

1 Timothy Marinaci

2 A No.

3 Q Is there a reason you didn't?

4 A I was their as the caretaker  
5 supervisor.

6 Q Did you observe other than him  
7 lying -- you said he was on a backboard with  
8 the neck brace?

9 A Yes.

10 Q Did he exhibit any physical  
11 indications of being in pain and discomfort?

12 A Nothing that I observed, no.

13 Q After this conversation with  
14 Bienz, what happened next?

15 A I believe I spoke briefly to his  
16 wife.

17 Q What was her name?

18 A I don't know.

19 Q Did you ever meet her prior to  
20 this date?

21 A No.

22 Q Who spoke first, and what was  
23 said?

24 A I believe I spoke first.

25 Q What did you say?

1 Timothy Marinaci

2 A I asked her if she was okay.

3 Q What did she say?

4 A I believe she indicated yes.

5 Q Any other conversation between  
6 you and her?

7 A Yes.

8 Q What was it?

9 A I believe I told her if she  
10 needed anything to tell me, and that it was  
11 going to be a long night.

12 Q What if anything did she say to  
13 you?

14 A Okay.

15 Q Did she ever ask you any  
16 questions after you said that to her? What's  
17 going to happen here next, or any questions at  
18 all about what the procedure was going to be?

19 A I don't believe so.

20 Q Did you ever inquire of her any  
21 of the underlying facts?

22 A No.

23 Q Did you have occasion to observe  
24 an odor of alcohol on her breath, slurred  
25 speech, bloodshot eyes, or any other indicia

1 Timothy Marinaci

2 of intoxication?

3 A No.

4 Q In general, as part of your  
5 training and experience in the Nassau County  
6 Police Department, where there is a shooting  
7 involved -- involving a police officer on or  
8 off-duty, is it a requirement to determine  
9 whether or not that Officer is quote "fit for  
10 duty"?

11 MR. FERGUSON: Note my objection.

12 A I don't know.

13 Q Is the term fit for duty a term  
14 of art in the Police Department to mean sober?

15 A Term of what?

16 Q Term of art recognized to mean  
17 that they're sober.

18 A It a very -- fit for duty is a  
19 very general term.

20 Q What is your understanding what  
21 it means?

22 A To be fit for duty.

23 Q Does that include being sober not  
24 intoxicated by the consumption of drugs or  
25 alcohol?

1 Timothy Marinaci

2 A Yes.

3 Q Based upon your observations that  
4 night, did you reach any conclusions whether  
5 or not DiLeonardo or Bienz at the time that  
6 you observed them in the hospital appeared to  
7 be fit for duty?

8 A I did not reach any conclusions.

9 Q Either way?

10 A Either way.

11 Q So, as you sit here, today,  
12 you're telling me that that based upon your  
13 observations of DiLeonardo and Bienz they may  
14 have been unfit for duty by reason of the  
15 consumption of alcohol or drugs?

16 MR. FERGUSON: He didn't say  
17 that. Note my objection.

18 A I didn't say that.

19 Q Based upon your observations of  
20 DiLeonardo and Bienz, are you able to reach a  
21 conclusion as to whether or not they were fit  
22 for duty?

23 MR. FERGUSON: At which time are  
24 you talking about?

25 Q When you spoke to them that

Timothy Marinaci

night.

A When I spoke to both of them, initially, I saw nothing to indicate that they were unfit for duty.

Q Is there anything that ever changed your opinion of that fact?

A No.

Q So, as you sit here today, is it your opinion, sir, that they were fit for duty?

MR. FERGUSON: Based on what he knew at that time.

Q Based upon your observations of them in the hospital and your conversations with them that night, did you conclude that they were fit for duty?

A Based on my interactions with them at that time, they appeared to be fit for duty.

Q Now, how long was your conversation with Jillian Bienz?

A I don't know who Jullian Bienz is. Is that his wife?

Q His wife.



1 Timothy Marinaci

2 A Very brief. Less than a minute.

3 Q What did you do after that  
4 conversation?

5 A I believe I left them and called  
6 Sergeant Papa.

7 Q Did you use your cell phone to  
8 call Papa?

9 A I used a cell phone. I don't  
10 know if it was mine or departmental.

11 Q What did you say to Sergeant  
12 Papa; what did you tell him?

13 A I told him that Officer  
14 DiLeonardo had not been shot.

15 Q Yes.

16 A That there had been some type of  
17 altercation, and that Suffolk County was  
18 investigating, and that Officer DiLeonardo had  
19 shot a cab driver.

20 Q Did you know or inquire about the  
21 health or well being of the cab driver?

22 A At that point? I don't recall.

23 Q So, going back to the  
24 conversation with the detective in the  
25 emergency room parking lot when he told you

1 Timothy Marinaci

2 that DiLeonardo shot the cabbie, you don't  
3 recall inquiring how he was?

4 A I don't recall.

5 Q At that point when you were  
6 talking to Papa, did you at least know whether  
7 or not he was alive or dead?

8 A I believe at that point I knew he  
9 was alive.

10 Q Do you know how you came about  
11 that information?

12 A I don't recall.

13 Q After you reported this  
14 information to Papa, did he communicate any  
15 information to you or any direction to you?

16 A He told me to remain at the scene  
17 and be the caretaker supervisor there.

18 Q You said that he was a Sergeant  
19 as well, right?

20 A Yes.

21 Q Was he giving you orders, or were  
22 you just more or less calling in to fill him  
23 in that your two officers were okay; they  
24 didn't get shot?

25 A As desk Officer he has

Timothy Marinaci

administrative authority over patrol supervisors even of the same rank.

Q So, then, he told you to remain at the hospital, and you filled him in the guys were okay -- they weren't shot. And he asked you to stay, right?

A He told me to stay.

Q What's the next thing you do then after having this conversation with Papa?

A At some point -- I don't remember the exact time -- I spoke to the First Squad detective, again, from Suffolk County.

Q Is this --

MR. FERGUSON: First or second?

THE WITNESS: Excuse me, the Second Squad detective that I had spoken to outside.

Q You spoke to the same detective you spoke to in the emergency room -- outside the emergency room parking lot?

A I spoke to the Second Squad detective inside. It was the same detective I spoke to outside.

Q This is the guy who gave you his

1 Timothy Marinaci

2 card, but you lost it?

3 A Yes.

4 Q If you could look at the scene  
5 log -- can you tell me by looking at that  
6 scene log -- it appears that there was only  
7 one detective present at the hospital prior to  
8 your arrival -- a Gene Geissinger. Would that  
9 refresh your recollection whether or not that  
10 was the detective that you spoke to?

11 MR. FERGUSON: Note my objection  
12 to your representation that this is the  
13 complete listing of the persons that  
14 were there. Because as you know,  
15 Inspector Flanagan has already testified  
16 that he was there and his name is not on  
17 her and others as well.

18 So, I object to your  
19 representation that this would be a  
20 complete listing of the people that were  
21 there.

22 MR. GRANDINETTE: Thank you for  
23 that.

24 MR. FERGUSON: What name?

25 Q Looking at the scene log, it

1 Timothy Marinaci

2 appears from the names on the scene log that  
3 Geissinger was the only detective present from  
4 the Second prior to your arrival; does that  
5 refresh your recollection of who you spoke to?

6 A I don't recall the detective's  
7 name.

8 MR. FERGUSON: Doesn't it say  
9 Favatta, Second Precinct, or am I  
10 interrupting something here, 30314.

11 MR. GRANDINETTE: That's after AT  
12 3:14 in the morning.

13 MR. FERGUSON: What was your  
14 question?

15 MR. GRANDINETTE: I'm not going  
16 to repeat it.

17 Q How long after the conversation  
18 with Papa did you speak to this Second Squad  
19 detective, again?

20 A I don't recall.

21 Q What did you speak to him about?

22 A I explained to him that my  
23 superior officer would be coming to the  
24 hospital. I was just there to explain to him  
25 what a caretaker supervisor was.

1 Timothy Marinaci

2 Q What did you tell him?

3 A I explained to him that I was  
4 responsible for their care, medical, emotional  
5 and mental.

6 Q So, you had a very specific duty  
7 of being responsible for their medical  
8 condition, emotional condition, correct?

9 A Yes.

10 Q How long would you say this  
11 conversation was with the detective the second  
12 time around?

13 A I don't recall.

14 Q Did he say anything to you after  
15 you explained your role and that your  
16 supervisors would be coming town?

17 A Yes.

18 Q What did he say to you?

19 A He, basically, told me the same  
20 thing from his department. His supervisors,  
21 other detectives, people would be coming down  
22 to do an investigation.

23 Q Did you ever observe an Officer  
24 posted outside the room of DiLeonardo from  
25 Suffolk County?

1 Timothy Marinaci

2 A I don't recall.

3 Q As your role as duty caretaker,  
4 did you inquire with the physician or medical  
5 staff as to the condition of DiLeonardo or  
6 Bienz?

7 A I don't recall.

8 Q Wasn't that your specific duty to  
9 be their caretaker?

10 A My job was ensure that they were  
11 cared for.

12 Q In performing your job function,  
13 did you ever speak to any of the doctors or  
14 the hospital staff to inquire about the  
15 medical condition of DiLeonardo and Bienz?

16 A I don't recall.

17 Q So, that means you could have?

18 A It's possible, yes.

19 Q Do you ever recall speaking to a  
20 Dr. --

21 MR. FERGUSON: You can save  
22 yourself some time. He's already said  
23 he doesn't recall.

24 Q Dr. Kraszewski.

25 A I don't recall.

1 Timothy Marinaci

2 Q Do you recall seeing a doctor  
3 treating and/or caring for DiLeonardo and  
4 Bienz?

5 A I don't recall if I saw any  
6 doctors treating him.

7 Q How long were you at the hospital  
8 that night?

9 A I don't recall what time I left  
10 the hospital.

11 Q From the time you arrived to  
12 whatever time you left, did you ever see a  
13 doctor in the presence of either DiLeonardo or  
14 Bienz?

15 A I saw hospital personnel with  
16 them. I don't know if they were doctors or  
17 nurses or anything else.

18 Q But, you saw hospital personnel  
19 speaking to them, taking care of their medical  
20 needs, and performing medical tests?

21 MR. FERGUSON: That's about three  
22 questions. Can you try it?

23 A I don't know if they were  
24 performing tests. I saw them -- hospital  
25 personnel with them performing some type of



Timothy Marinaci

function.

Q Did you ever hear one of the doctors, specifically, Dr. Kraszewski, indicate that she believed that DiLeonardo and Bienz were drunk and she wanted their blood drawn?

A Did I hear that?

Q Yes.

A No.

Q Did you ever, specifically, hear the doctor say words to the effect that this is great, these guys are drunk; they can shoot someone and walk out the hospital the same day?

A No.

Q Did you ever hear the doctor or any nursing staff make specific requests of Officer DiLeonardo to draw his blood and to take his urine?

A No.

Q Are you aware that Officer DiLeonardo refused to give his blood and refused to give his urine to hospital personnel?

1 Timothy Marinaci

2 A No.

3 Q You weren't aware of that fact?

4 A No.

5 MR. FERGUSON: Just asked and  
6 answered.

7 Q Were you aware of the fact that  
8 according to the medical records that the odor  
9 of alcohol was detected on Officer  
10 DiLeonardo's breath, and that his words were  
11 slurred?

12 MR. FERGUSON: Note my objection.

13 A I have no knowledge of the  
14 medical records.

15 Q Were you aware of the fact that  
16 on the medical records Officer DiLeonardo  
17 indicated that he believed that he was struck  
18 by a bullet and suffered a gun shot wound?

19 A I have no knowledge of the  
20 medical records.

21 Q Do you know if that's how the  
22 shooting of DiLeonardo came to be reported to  
23 you because he reported being shot to a member  
24 of the Suffolk County Police Department at the  
25 scene, which was subsequently communicated to

1 Timothy Marinaci

2 Sergeant Papa?

3 A I don't know how it was reported  
4 to Sergeant Papa.

5 Q But, it's your testimony that  
6 DiLeonardo never told you that he believed  
7 that he was shot?

8 A I don't believe so, no.

9 Q I'm going to show you, very  
10 quickly, DiLeonardo's medical records,  
11 previously marked as Plaintiff's Exhibit 6.

12 MR. FERGUSON: What is that?

13 MR. GRANDINETTE: DiLeonardo's  
14 medical records.

15 Q I'm going to ask you to take a  
16 look at DiLeonardo's medical records. Let's  
17 start with the chief complaint, the  
18 highlighted section.

19 MR. FERGUSON: Note my objection  
20 to showing this witness -- who's not a  
21 medical person -- somebody's medical  
22 records, and I assume asking questions  
23 about it. Otherwise, there would be no  
24 purpose of showing it to him.

25 Q You were ultimately -- you were

1 Timothy Marinaci

2 assigned to fill out the Worker's Compensation  
3 forms and injury reports regarding DiLeonardo  
4 and Bienz, right?

5 MR. FERGUSON: Objection.

6 A Yes.

7 Q You were discharged with the  
8 duty, sir, of caring for them and being  
9 responsible that they received the medical  
10 care that they need?

11 MR. FERGUSON: He didn't care for  
12 them at all.

13 Q Not the care. But, you were  
14 the -- I think you described it as the duty  
15 care advisor; you were there to oversee that  
16 they got appropriate medical attention, right?

17 A Caretaker supervisor.

18 Q Looking at Plaintiff's 6, I ask  
19 you to look under chief complaint. You see  
20 the section that says -- that's highlighted  
21 there for you? It says my arm hurts?

22 MR. FERGUSON: Note my objection  
23 to questioning this witness about a  
24 medical record which he had nothing to  
25 do with, unless you establish some sort

1 Timothy Marinaci

2 of foundation that he did.

3 Objection to this line of  
4 questioning.

5 Q Was that consistent with what  
6 your observations and communications with  
7 DiLeonardo that night?

8 A I have no knowledge of this form  
9 itself. I did observe Officer DiLeonardo  
10 having injury to his arm.

11 Q Is that chief complaint  
12 consistent with your observations and what you  
13 learned that night?

14 MR. FERGUSON: Same objection.

15 A I don't know if that was his  
16 chief complaint or not.

17 Q What did he communicate to you  
18 prior to you filling out the forms what his  
19 chief complaint was?

20 MR. FERGUSON: Note my objection.

21 Never been any foundation that he  
22 communicated a chief complaint to this  
23 Officer.

24 A I don't believe he ever told me  
25 what his complaints were.

1 Timothy Marinaci

2 Q Did you fill out his Worker's  
3 Compensation form listing what his injuries  
4 were?

5 A Yes.

6 Q Where did you get the list of  
7 what his injuries were?

8 A I got it from another person.

9 Q Who was that?

10 A I don't recall.

11 Q You never got DiLeonardo's  
12 medical complaints from DiLeonardo directly?

13 A I don't believe so, no.

14 Q You reported them to the Worker's  
15 Compensation Board as reported to you by  
16 someone else?

17 A I filled out the forms. I'm not  
18 sure I understand the question.

19 Q You filled out forms indicating  
20 what DiLeonardo's medical condition was,  
21 right?

22 A Yes.

23 Q You submitted those forms under  
24 penalty of perjury to the Worker's  
25 Compensation Board.

1 Timothy Marinaci

2 MR. FERGUSON: Note my objection.

3 A I submitted them, yes.

4 Q Is it your testimony that you  
5 didn't speak to DiLeonardo about the nature of  
6 his injuries before you submitted the form?

7 MR. FERGUSON: Note my objection.

8 A I don't believe so.

9 Q So, who provided you the  
10 information where you listed his injuries?

11 MR. FERGUSON: Three times.

12 A I don't recall.

13 Q Let's look at his subjective  
14 complaint.

15 MR. FERGUSON: Referring to a  
16 medical record, again?

17 MR. GRANDINETTE: Yes.

18 Subjective assessment highlighted.

19 MR. FERGUSON: Same objection.

20 Q Patient found seated on ground  
21 states his arm is bleeding; states he was  
22 exchanging gunfire with a suspect when he may  
23 have been struck by a bullet.

24 Did you read that sentence?

25 A I'm reading the sentence, yes.

1 Timothy Marinaci

2 Q Now, is it your testimony that  
3 DiLeonardo never communicated those facts to  
4 you; that he believed he was injured after  
5 exchanging gunfire and being struck by a  
6 bullet?

7 A I don't believe so, no.

8 Q If we look, sir, to the next tab  
9 -- if you would. Let me get it for you.

10 The page number on the IAB report  
11 is 160. If you take a look at the highlighted  
12 section, there's a time transcribed as 0210,  
13 right?

14 MR. FERGUSON: Again, this is  
15 Huntington Hospital emergency department  
16 record. This Officer has nothing to do  
17 with this. Nor has it been established  
18 he has any expertise in medical care.  
19 And I would object to his being  
20 questioned about the hospital record.

21 Q At 0210, according to this entry,  
22 you see patient refused blood work, correct?

23 A That's what the form says.

24 Q Then it says MD made aware  
25 charge nurse NS and MD -- looks like two room



1 Timothy Marinaci

2 at bedside, correct?

3 MR. FERGUSON: Note my objection.

4 You're interpreting something that not  
5 what it says. But, you're making your  
6 own interpretation. Objection.

7 A I don't know what some of this  
8 says.

9 Q You can't make that out?

10 A Couple of things, no.

11 Q You can make out the fact that  
12 0210, the patient refused blood work, right?

13 A The form says that.

14 Q Again, going down further at  
15 0300 hours, there's another entry -- looks  
16 likes Michael NS notified me that patient has  
17 the right to refuse blood work, notified MD,  
18 right?

19 MR. FERGUSON: Same objection.

20 A That's what the form says.

21 Q Is it your testimony that you  
22 were unaware that an issue arose regarding  
23 DiLeonardo's refusing to give his blood to  
24 hospital personnel that night?

25 MR. FERGUSON: Note my objection.

1 Timothy Marinaci

2 A Can you repeat the question?

3 Q You were not aware that the issue  
4 of DiLeonardo refusing to give blood to the  
5 hospital staff arose that night?

6 MR. FERGUSON: Objection.

7 A I was not aware that he refused  
8 to give blood.

9 Q You never became aware of it that  
10 evening? Never heard anybody speaking about  
11 wanting his brood work or the fact that he was  
12 intoxicated.

13 MR. FERGUSON: Same objection.

14 A I don't believe so, no.

15 Q Now, you said that you were in  
16 close proximity to him and you didn't observe  
17 him slurring his words or an odor of alcohol  
18 on his breath, correct?

19 MR. FERGUSON: Asked and  
20 answered.

21 A No.

22 Q So, if you look at the hospital  
23 record -- that portion that's highlighted -- I  
24 ask you to read along with me for a second.

25 MR. FERGUSON: Objection to --

1 Timothy Marinaci

2 the same objection to using the hospital  
3 record with this witness.

4 Q Starting with the word slurring.  
5 Slurring words at times with smell of alcohol  
6 on breath perseverating; you see that?

7 A Yes.

8 Q So, would you agree with me that  
9 at least someone -- the time on this form is  
10 0215 hours, correct? Top of the form says  
11 0215 hours?

12 A I have no knowledge of this form;  
13 who filled it out or if the time is correct.

14 Q I'm not saying that you do have  
15 knowledge, you don't have knowledge. I'm  
16 asking you, though, on the form itself what  
17 appears to be DiLeonardo medical records from  
18 Huntington Hospital, the time is 0215 and  
19 there is an indication by a member of the  
20 staff that he is slurring his words and he has  
21 an odor of alcohol on his breath, correct?

22 MR. FERGUSON: Objection.

23 A In the top left corner it says  
24 0215. That is written. But, I do not know  
25 who wrote it.

1 Timothy Marinaci

2 Q I understand you don't know who  
3 wrote it.

4 Does the form indicate that he  
5 had an odor of alcohol on his breath and was  
6 slurring his words?

7 MR. FERGUSON: Objection.

8 Does it say that; yes or no?

9 THE WITNESS: Yes, it does say  
10 that.

11 Q Moving onto the next page marked  
12 166, the highlighted section at the bottom.  
13 Would you agree with me that there's another  
14 note under comments, procedure re-assessment,  
15 it says the patient refuses to have any blood  
16 or urine tests tested?

17 MR. FERGUSON: Objection.

18 A The forms says that.

19 Q Under psychiatric, circled is the  
20 word impaired -- under effect, circle is the  
21 word hostile, correct?

22 MR. FERGUSON: Objection.

23 A They are checked. I don't  
24 know -- I don't know this form. I can't state  
25 everything you said.

1 Timothy Marinaci

2 Q Turning to the next page is the  
3 discharge summary. It indicates that  
4 DiLeonardo was discharged from the hospital  
5 0630, correct?

6 MR. FERGUSON: Objection.

7 A The forms says that.

8 Q Then under that there's a  
9 discharge plan, right?

10 MR. FERGUSON: Objection.

11 A Yes.

12 Q Now, if you look to the left of  
13 the discharge, there's an impression and  
14 there's a list of three things described  
15 there. There's a right shoulder contusion,  
16 right finger -- looks like right third finger  
17 laceration and a left forearm laceration,  
18 correct?

19 MR. FERGUSON: Objection.

20 A Yes.

21 Q Was that consistent with the  
22 injuries you believed that Officer DiLeonardo  
23 suffered?

24 MR. FERGUSON: Objection.

25 A I would have to look at my

1 Timothy Marinaci

2 paperwork that I filled out that morning to  
3 see if it's consistent.

4 Q At any rate, DiLeonardo walked  
5 out of the hospital that evening of his own  
6 accord?

7 MR. FERGUSON: I doubt it.

8 Q In other words, that morning he  
9 left the hospital?

10 A Yes.

11 Q He walked out. He wasn't in need  
12 of any prosthetics, crutches; he wasn't  
13 casted, didn't have any serious physical  
14 injury, correct?

15 MR. FERGUSON: How many questions  
16 are you asking here?

17 Q Did he have any serious physical  
18 injury?

19 MR. FERGUSON: Note my objection.  
20 This is not a medical witness.  
21 Objection.

22 MR. GRANDINETTE: You established  
23 him as being a witness responsible for  
24 his medical care.

25 MR. FERGUSON: That doesn't mean

1 Timothy Marinaci

2 giving medical care.

3 MR. GRANDINETTE: Of course, it  
4 doesn't. It's an oversight.

5 MR. FERGUSON: Big difference.  
6 I'm not arguing with you.

7 Q Would it be fair to say that  
8 DiLeonardo didn't have any serious physical  
9 injury, and you knew that when he left the  
10 hospital at 6:30 in the morning?

11 MR. FERGUSON: Objection. That  
12 calls for a medical conclusion.

13 A At that time I didn't know the  
14 extent of his injuries. I didn't know the  
15 severity of his injuries.

16 Q But, you did indicate, earlier,  
17 that you didn't observe any serious physical  
18 injury based upon your observations and  
19 communications with him, right?

20 MR. FERGUSON: Objection.

21 A I don't believe I said that.

22 Q Well, when you were in the room  
23 with him for the first minute you said he  
24 looked okay; he might start to cry, but that  
25 he wasn't in any serious pain.

1 Timothy Marinaci

2 MR. FERGUSON: You're  
3 mischaracterizing -- you're going back  
4 over things and then misstating it all  
5 altogether.

6 Q I'll withdraw the question.

7 After this conversation with  
8 Bienz -- I'm going back to Bienz -- you said  
9 that you spoke to Bienz and that you didn't  
10 observe any indicia of intoxication on him,  
11 right?

12 MR. FERGUSON: We have to go  
13 through things, again and again. If  
14 he's already asked and answered the  
15 question -- you've gotten the question  
16 answered. So, you're only entitled to  
17 that.

18 Q You said that there was nothing  
19 that you observed about Officer Bienz that  
20 suggested that he had consumed alcohol, right?

21 MR. FERGUSON: He did not say  
22 that. Objection. He said he didn't  
23 appear intoxicated. There's a big  
24 difference.

25 Q Did you observe anything at all



1 Timothy Marinaci

2 based upon your communication with Bienz that  
3 night that he had consumed any alcohol?

4 MR. FERGUSON: Objection.

5 A No, I did not.

6 MR. GRANDINETTE: Can I have this  
7 marked as Plaintiff's 28?

8 (Plaintiff's 28 marked)

9 MR. FERGUSON: Going through the  
10 medical record, again?

11 MR. GRANDINETTE: Yes, it is.

12 MR. FERGUSON: I have a  
13 continuing objection to all questions  
14 asking for this witness to read medical  
15 records and to answer questions from  
16 hospital or other medical records.

17 MR. GRANDINETTE: It's noted.

18 Q Officer, if you would, Sergeant,  
19 ask you to look at page 000173 -- there's a  
20 highlighted section there.

21 MR. FERGUSON: The whole thing is  
22 highlighted except for the vital signs.

23 Q You see under the section of  
24 chief complaint, my left arm and leg hurts,  
25 correct?

1 Timothy Marinaci

2 A The form says that, but I have no  
3 knowledge about this form.

4 Q It's okay. I know you don't.  
5 I'm just asking you to go through with me what  
6 the medical records of Officer Bienz show.

7 MR. FERGUSON: For what purpose?

8 Q Now, that in mind, would you  
9 agree with me that according to the ambulance  
10 record, Ed Bienz reported his chief complaint  
11 to be my left arm and leg hurts.

12 MR. FERGUSON: Objection.

13 A I don't know where this form came  
14 from. I don't know if it's an ambulance  
15 record or what record.

16 Q Okay. Notwithstanding that fact,  
17 under chief complaint, do you agree with me it  
18 says my left arm and leg hurts?

19 MR. FERGUSON: Objection.

20 A Yes, it does.

21 Q Does it also say lower -- under  
22 objective physical assessment -- and I circled  
23 it -- smell of alcohol present on breath?

24 MR. FERGUSON: Note my objection.

25 A The form says that.

1 Timothy Marinaci

2 Q Now, it's your testimony, though,  
3 that when you were in Officer Bienz's presence  
4 approximately a foot or two away you did not  
5 smell an odor of alcohol?

6 MR. FERGUSON: Asked and  
7 answered.

8 A I did not smell an odor of  
9 alcohol.

10 Q Now, if you look in the medical  
11 records, again the highlighted section of page  
12 176 under comments, it indicates that the  
13 patient admits to drinking ethanol tonight,  
14 tonight?

15 MR. FERGUSON: Objection.

16 A I don't know what that says.

17 Q If you go to the last page, sir,  
18 -- if you look at the discharge summary, can  
19 you tell me what time Officer Bienz was  
20 discharged?

21 MR. FERGUSON: Objection.

22 Q According to the hospital  
23 records?

24 MR. FERGUSON: Objection.

25 A The time on the form is 0550.

1 Timothy Marinaci

2 Q Under impression it has left  
3 elbow contusion and left leg abrasion, right?

4 A That's what it says on the form.

5 Q Is that summary consistent with  
6 your observation of Ed Bienz's medical  
7 condition?

8 MR. FERGUSON: Note my objection.

9 A I would need to review my  
10 paperwork that I did.

11 Q Okay. You mentioned he was on a  
12 backboard and medical collar. You know he was  
13 X-rayed that night to check for any fractures  
14 to make sure that he was okay.

15 MR. FERGUSON: Note my objection.

16 A I don't recall him being X-rayed.

17 Q If you looked at the X-ray  
18 reports and his medical records would that  
19 refresh your recollection that he was sent out  
20 for X-rays?

21 A No.

22 Q It wouldn't refresh your  
23 recollection?

24 A No, I have no knowledge of these  
25 forms.

1 Timothy Marinaci

2 Q You said you don't recall  
3 speaking to anybody about his medical  
4 condition, correct?

5 A Who?

6 Q Either one of these guys; a  
7 doctor or a nurse or anybody from the hospital  
8 you never had a conversation with?

9 A I said I don't recall.

10 Q Now, other than this first  
11 conversation you had with Bienz and  
12 DiLeonardo, did there come a time that evening  
13 that you spoke with either one of them, again?

14 A Yes.

15 MR. FERGUSON: I assume you're  
16 talking about the morning.

17 Q When I say that evening, I'm  
18 referring to -- the time is now from 2 o'clock  
19 to the discharge times. One was 5:50; the  
20 other was 6:30. So, in between that window,  
21 did you have any further conversation with  
22 either one of them?

23 A Yes.

24 Q Let's start with Bienz because  
25 you said -- I think you said you spoke with

1 Timothy Marinaci

2 him and his lawyer, or was that DiLeonardo?

3 MR. FERGUSON: The lawyer's name  
4 that he gave was for DiLeonardo. It was  
5 Miller.

6 Q Let start with that conversation.

7 MR. FERGUSON: Willard Miller.

8 Q Do you have any time reference  
9 for us between the first conversation and the  
10 second conversation?

11 A It was later in the night.

12 Q You said that's when you filled  
13 out the firearms discharge form?

14 A No.

15 Q That was the time that you made  
16 inquiry for factual data in to include into  
17 the firearms discharge summary.

18 A I didn't complete the  
19 firearms discharge form at that time. I began  
20 to fill it out with the questions I needed  
21 from him. I completed it at the Third  
22 Precinct.

23 Q Is that conversation with him and  
24 Miller; was that the only other conversation  
25 you had with DiLeonardo that night?

1 Timothy Marinaci

2 A I believe so.

3 Q Were you directed by Sergeant  
4 Papa to gather that information and fill out  
5 that form?

6 A I don't recall.

7 Q Was this the only other function  
8 you performed other than the duty care  
9 supervisor?

10 A I was the caretaker supervisor.  
11 I filled out the departmental and state  
12 paperwork on their injuries. I filled out the  
13 firearms discharge report.

14 MR. GRANDINETTE: If we could  
15 have that marked as Plaintiff's 29.

16 (Plaintiff's 29 marked)

17 Q Was this second conversation the  
18 only other conversation you had with  
19 DiLeonardo that night?

20 MR. FERGUSON: Just asked that  
21 question five minutes ago.

22 A Yes, I believe so.

23 Q What information did you ask him,  
24 without looking at that? If you need it, you  
25 can refer to it. But, without looking at it,

Timothy Marinaci

tell me where this conversation took place and who said what to whom.

A Took place in the emergency room.

Q Okay.

A I asked him questions in the presence of his lawyer -- the information I needed to complete the firearms discharge report.

Q Where within the emergency room? Was it the same room?

MR. FERGUSON: Fourteen feet from the entrance.

A It was not the same room he was in originally.

Q Was it in a room, though, or was it in an open area?

A It was in an open area.

Q Was there anybody else present?

A It was myself, Officer DiLeonardo, and his lawyer.

Q How about Covis, his union rep or anybody else? Was anybody around or just you three?

A He was in the emergency room. He



1 Timothy Marinaci

2 wasn't present for that conversation.

3 Q Just explain to me how the  
4 inquiry went? What did you ask or what were  
5 the parameters of this inquiry?

6 A I explained to DiLeonardo and his  
7 attorney that I need questions specifically  
8 for the firearms discharge report. I asked  
9 his lawyer if I could speak to him.

10 Q Explain to me -- does he have a  
11 choice not to answer your questions?

12 MR. FERGUSON: Objection. If you  
13 know. Note my objection.

14 A I don't know.

15 Q At any rate, what do you ask  
16 DiLeonardo about the discharge of his firearm?

17 A I need to look at the form.

18 Q After you reviewed it, let me  
19 know and then I'll ask you questions.

20 MR. FERGUSON: I believe there's  
21 an open question, right?

22 Q Did all the information contained  
23 in this report come from DiLeonardo?

24 A I don't recall if he specifically  
25 said it or if his lawyer said it.

1 Timothy Marinaci

2 Q Irrespective, is it your belief  
3 that the content of the form came from  
4 DiLeonardo or his legal representative?

5 A Yes.

6 Q So, we start, for example, with  
7 the time of incident. It says 0118 hours,  
8 right? It's a very specific time.

9 Did DiLeonardo tell you that this  
10 shooting took place at 0118 as opposed to  
11 0120?

12 A I don't believe so.

13 Q Where did that come from?

14 A I believe it came from Suffolk  
15 County Police Department.

16 Q Would that, then, presume that  
17 you had communications with a member of the  
18 Suffolk County Police Department to help you  
19 fill out this form or to gather information  
20 about the facts of the case?

21 A I got preliminary information  
22 from the Suffolk County Police Department.

23 Q When?

24 A At some point during that night.

25 Q Okay. Relative to this form?

1 Timothy Marinaci

2 MR. FERGUSON: To the form or to  
3 the incident?

4 Q To this form.

5 A I don't understand the question.

6 Q Earlier, you said duty caretaker?

7 A No.

8 Q Caretaker duty Officer?

9 A No.

10 Q What is it?

11 A Caretaker supervisor.

12 Q So, you're the caretaker  
13 supervisor. So, you weren't making specific  
14 inquiries about the underlying facts?

15 A Correct.

16 Q Prior to speaking to DiLeonardo a  
17 second time for purposes of this factual  
18 information to fill out this form, did you  
19 have substantive conversations with any member  
20 of the Suffolk PD regarding the underlying  
21 facts?

22 A I spoke to at least one member of  
23 the Suffolk County Police Department about  
24 preliminary information, not about  
25 substantive.

1 Timothy Marinaci

2 Q What's the difference between  
3 preliminary information and substantive  
4 information in your mind?

5 A Preliminary is time of  
6 occurrence, the location, things along those  
7 lines -- not the actual incident itself.

8 Q When did you have that  
9 conversation?

10 A It was before I spoke to  
11 DiLeonardo the second time.

12 Q So, did you seek out a member of  
13 Suffolk County PD for this preliminary factual  
14 information?

15 A There were members of the Suffolk  
16 County Police Department in the emergency  
17 room. I wouldn't say I seeked them out. They  
18 were there.

19 Q Did they come up to you and just  
20 give did you the information, or did you now  
21 know, hey, listen, I got to fill out this  
22 report, so I'm going to get some preliminary  
23 information from them.

24 A I don't recall who initiated that  
25 conversation.

1 Timothy Marinaci

2 Q At any rate, when the  
3 conversation started you just told them,  
4 "Guys, I need some substantive preliminary  
5 information"?

6 A No.

7 Q Did they only give you this  
8 preliminary information without you asking for  
9 it, like date, time, location?

10 A There was a conversation about  
11 it. I don't know if I went to them first or  
12 if they came to me.

13 Q Did you write this information  
14 down since you filled out your paperwork later  
15 and not at the hospital on some memo book,  
16 note pad, anything like that?

17 A The only information I had was  
18 written on this form. It was finished at the  
19 Third Precinct.

20 Q So, you had this form with you at  
21 the hospital?

22 A Yes.

23 Q Then you could just ask Suffolk  
24 County PD what was the time of the incident.  
25 What was the location. Did you write it

1 Timothy Marinaci

2 contemporaneously when they gave it to you?

3 A I wrote that information on this  
4 form.

5 Q Okay. So, the first box  
6 regarding incident is stuff that you're saying  
7 Suffolk PD gave you; date, time, location?

8 A Yes.

9 Q Now, the other information, I'm  
10 sure, starting about the Officer, his name,  
11 his shield, his command; you knew all that,  
12 right?

13 A Not all of it offhand.

14 Q Next, we go to duty status. He  
15 was off-duty. He was in civilian clothes,  
16 correct?

17 A Correct.

18 Q And the next line down -- it  
19 calls for the type of incident. Who told you  
20 that it was an arrest?

21 A There was a another member of the  
22 Suffolk County Police Department that told me  
23 the subject had been arrested.

24 Q What time did you get that  
25 information from the Suffolk County Police

1 Timothy Marinaci

2 Officer?

3 A I don't recall.

4 Q Do you know what time Moroughan  
5 was placed under arrest?

6 A No, I don't.

7 Q Was it an Officer; was it a  
8 detective that gave you this information?

9 A That gave me the information for  
10 this form?

11 Q That he was arrested.

12 A That was a Suffolk County  
13 detective.

14 Q Was it the same detective you had  
15 communicated with, earlier, or was it a  
16 different detective?

17 A Different detective.

18 Q Do you know his name?

19 A Yes.

20 Q What was his name?

21 A I believe it's Tavares.

22 Q What was your conversation with  
23 Tavares regarding the arrest of Mr. Moroughan?

24 A It was limited. He said that  
25 Moroughan had been arrested for the incident.

1 Timothy Marinaci

2 Q Did he give you any more specific  
3 details?

4 A No, he did not.

5 Q Did you ask him what's he  
6 arrested for?

7 A I don't recall.

8 Q Was it important for you to know  
9 that whether or not he was being arrested for  
10 reckless endangerment, assault, resisting  
11 arrest, anything?

12 A For me at that point, no.

13 Q This man, by the way, who was  
14 being arrested; did you see him in the  
15 emergency room?

16 A At a distance. I was never  
17 really in his presence.

18 Q How far was he from you at the  
19 emergency room?

20 A At what point?

21 Q Assuming you moved from point to  
22 point to point, right? Why don't I ask you  
23 how big, in general, is the emergency room.

24 MR. FERGUSON: Objection. No  
25 foundation that he knows the parameters.



1 Timothy Marinaci

2 You're referring to this man as  
3 Moroughan.

4 MR. GRANDINETTE: Yes.

5 MR. FERGUSON: Why don't you ask  
6 him what's the closest you were to him.

7 MR. GRANDINETTE: Because I want  
8 to ask him in general --

9 Q Where was Moroughan? Was he in a  
10 room?

11 A Yes.

12 Q You said you saw him at a  
13 distance?

14 A Yes.

15 Q So, what was the closest distance  
16 you were to him that night?

17 A I would say the closest I ever  
18 was 15 feet.

19 Q What was the farthest that you  
20 were from him that night within the confines  
21 of the emergency room?

22 A I don't recall.

23 Q But, you were able to observe  
24 him -- you knew his room was right there the  
25 entire evening?

1 Timothy Marinaci

2 A I wouldn't say I observed him. I  
3 noticed him and didn't pay any attention to  
4 him.

5 Q Weren't you even curious to take  
6 a look at the guy who allegedly tried to run  
7 down DiLeonardo?

8 A No.

9 Q Did you ever hear him say  
10 anything that evening?

11 A No.

12 Q Did you ever hear him utter any  
13 word at all?

14 A No.

15 Q How many hours were you in the  
16 emergency room?

17 A I don't recall.

18 Q We know approximately what time  
19 you got there, right?

20 MR. FERGUSON: We've been through  
21 this four times.

22 Q DiLeonardo was discharged about  
23 6:30. So, would it be fair to say that you  
24 were in the ER roughly four and-a-half hours  
25 or so?

1 Timothy Marinaci

2 A I don't recall the exact amount  
3 of time.

4 Q During that entire time, is it  
5 your testimony that you never heard Moroughan  
6 say anything?

7 A Correct.

8 Q Did you ever hear him cry out  
9 word to the effect "Why did they shoot me?"

10 A No, I did not.

11 Q "I didn't do anything wrong."  
12 Did you ever hear him say that, "I didn't do  
13 anything wrong," or words to that effect?

14 A No.

15 Q Did you ever hear him cry out "I  
16 want my attorney. I want Riscoe Lewis?"

17 A No.

18 Q Do you know who Riscoe Lewis is?

19 A I believe I know who you're  
20 referring to. But, I'm not positive.

21 Q Did you come to learn that there  
22 was a Nassau County District Attorney present  
23 in the ER just like you were?

24 MR. FERGUSON: You mean an  
25 Assistant District Attorney?

1 Timothy Marinaci

2 A What do you mean just like I was?

3 Q That she was physically in the  
4 ER.

5 A Yes.

6 Q And you were in the ER, right?

7 A Yes.

8 Q I'm going to show you what has  
9 been marked as Plaintiff's 16. I ask you if  
10 you recognize that photograph to be Assistant  
11 District Attorney Riscoe Lewis?

12 A I don't know the name Riscoe  
13 Lewis.

14 Q Did you see that individual  
15 present in the emergency room that night?

16 A I believe that's her, yes.

17 Q How many hours was she present?

18 A I don't know.

19 Q Did you observe her there for  
20 most of the time that you were there?

21 A I don't recall how long she was  
22 there.

23 Q Do you recall from the location  
24 that you saw her whether or not she was able  
25 to observe Mr. Moroughan?

1 Timothy Marinaci

2 MR. FERGUSON: Objection. He

3 can't say what somebody else can see.

4 A I don't know. From where I saw,  
5 I don't know what she could see.

6 Q Were you aware that she was  
7 interviewed by the Internal Affairs Bureau of  
8 Nassau and Suffolk County Police Department?

9 A Was I aware?

10 Q Yes.

11 A No.

12 Q Were you aware that during the  
13 course of that interview she told members of  
14 Nassau and Suffolk IAB that Thomas Moroughan  
15 was yelling for his attorney and asking for  
16 Riscoe Lewis all night?

17 MR. FERGUSON: Note my objection.

18 A I have no knowledge of her IAU  
19 interview.

20 Q So, if she said that  
21 Mr. Moroughan was yelling -- words to the  
22 effect why did they shoot me? I didn't do  
23 anything. I want my attorney. you didn't  
24 hear any of that happening when you were at  
25 the hospital?

1 Timothy Marinaci

2 MR. FERGUSON: Asked and answered

3 over and over and over.

4 A I did not hear it.

5 Q Now, this is not a good picture  
6 admittedly, but it's the only one I have. I  
7 ask you to take a look at what has been marked  
8 as Plaintiff's 15. Do you recognize that to  
9 be the physician on call that night who  
10 attended to DiLeonardo and Bienz?

11 A I do not recognize that picture.

12 Q Was there anybody guarding  
13 Moroughan's room?

14 A I believe so, yes.

15 Q Who was that?

16 A A Suffolk County Police Officer.

17 Q Was there anybody guarding  
18 DiLeonardo or Bienz from Suffolk County?

19 A I don't believe so.

20 Q So, your observations that night  
21 with DiLeonardo and Bienz were free to come  
22 and go or speak to people as they pleased,  
23 correct?

24 A I believe so.

25 Q But, conversely, no one was able

1 Timothy Marinaci

2 to enter or exit Mloroughan's room, correct?

3 MR. FERGUSON: Objection.

4 A I don't know what Suffolk County  
5 Police Department was doing with  
6 Mr. Moroughan.

7 Q Did you ever see anybody ever  
8 enter that room where Mr. Moroughan was with  
9 an Officer stationed there?

10 A Yes.

11 Q You did?

12 A Yes.

13 Q Other than the hospital  
14 personnel. Who did you observe enter?

15 A Detectives.

16 Q Other than Suffolk County  
17 detectives?

18 A I don't recall anyone else going  
19 in.

20 Q Getting back to this form, then,  
21 you're saying that it was Detective Tavares  
22 who advised you that they were arresting  
23 Moroughan?

24 A I believe his name is Tavares.  
25 I'm not sure of the spelling. He only stated

1 Timothy Marinaci

2 that Moroughan was under arrest.

3 Q So, how does that relate to you  
4 checking this box, type of incident and  
5 arrest? Does that suggest that the discharge  
6 of the firearm was in the course of an arrest?

7 A The incident that DiLeonardo and  
8 Bienz were involved in resulted in an arrest.

9 Q This is a firearm discharge  
10 report. How does that box checked arrest  
11 relate to the discharge of the firearm?

12 MR. FERGUSON: Note my objection.

13 A From my limited knowledge of the  
14 incident, I assume that DiLeonardo was making  
15 an arrest or attempting to make an arrest.

16 Q So, at the time that you filled  
17 out this form, it's your testimony that you  
18 didn't -- you were assuming on limited  
19 information that the man discharged his  
20 firearm will effectuate an arrest?

21 A I had limited information, and  
22 filled out the form based on that limited  
23 information.

24 Q But, you had access to unlimited  
25 information, didn't you?



1 Timothy Marinaci

2 MR. FERGUSON: Objection.

3 A No.

4 Q You mean to tell me if you asked  
5 Tavares for the details of what transpired he  
6 wouldn't have told you?

7 MR. FERGUSON: Objection.

8 A It was not my responsibility to  
9 ask.

10 Q It's your responsibility to fill  
11 out a form accurately, isn't it?

12 MR. FERGUSON: Objection.

13 A Yes.

14 Q This is a very significant form  
15 you're filling out; it's a discharge report,  
16 isn't it?

17 A It's a firearms discharge report.

18 Q Therefore, it carries a  
19 significant importance; you want to get it  
20 right.

21 A It's an administrative form for  
22 the department.

23 Q And that administrative form you  
24 know to be an important form -- people are  
25 relying for accurate data to be reported to

Timothy Marinaci

them, right?

MR. FERGUSON: Note my objection  
as to what other people are relying upon  
based upon a form.

A It is my understanding that this  
form is a preliminary report of the knowledge  
at hand at that time.

Q So, this was an assessment that  
you made with very limited information  
according to your testimony, right?

A It was limited information, yes.

Q Now, knowing what you know today,  
do you agree with the classification on this  
form that DiLeonardo was discharging his  
firearm in the course of effectuating an  
arrest?

MR. FERGUSON: Objection.

A I have no further information  
from when I filled out this form.

Q Now, the type of discharge -- the  
box is checked line of duty. And you had  
mentioned, earlier, that DiLeonardo was  
off-duty when he discharged the firearm.  
Could you explain to me why you checked off

Timothy Marinaci

line of duty?

MR. FERGUSON: It's a  
mischaracterization of the testimony.  
Objection.

A I did not say that he was  
off-duty when he fired his firearm.

Q I thought you said he wasn't  
working.

A I said he was off-duty before the  
incident.

Q When you're off-duty and then --  
is it your position that because he observed a  
crime or was effectuating an arrest he then  
becomes on-duty?

A Can you repeat that, please?

Q Explain to me, under the  
circumstances, how you get -- that the  
discharge happened while he was on the line of  
duty?

A It's my understanding that  
Officer DiLeonardo was taking police action at  
which point he would be on duty.

Q So, when he is off-duty if he  
then becomes a police officer and engages in

1 Timothy Marinaci

2 his police duties the discharge of the firearm  
3 is in the line of duty.

4 A Well, you don't become a police  
5 officer when you take police action.

6 Q You already are. I get it.

7 A Yes.

8 Q That's how you reach that  
9 conclusion; that he is engaged in a lawful  
10 performance of his duty, and, therefore, this  
11 discharge was in the line of duty, right?

12 A Yes.

13 Q Maybe I could put it a different  
14 way.

15 If the guy was sitting at a  
16 backyard barbecue shooting at squirrels that  
17 wouldn't be a line of duty discharge, right?

18 A Hypothetically speaking, which I  
19 think you're doing -- no.

20 Q So, it was -- at least on this  
21 form, your position that he was engaged in  
22 police duty at the time that he fired his gun?

23 A Yes.

24 Q Now, next, the type of weapon is  
25 left blank. But, it goes down -- it says

1 Timothy Marinaci

2 number shots Officer fired, double action, it  
3 says three. Where did you get that  
4 information from?

5 A It was during my conversation  
6 with DiLeonardo and his attorney.

7 Q You said you looked at the  
8 windshield of the cab, earlier, that night?

9 A Yes.

10 Q So, at least what you observed  
11 was that there were three holes in the cab  
12 front windshield?

13 A I don't recall. Number of holes.  
14 I have to look at the photographs to refresh  
15 my memory.

16 Q And then there's something that  
17 says number of hits on target, and it says  
18 three?

19 A Yes.

20 Q What is meant by that? What's  
21 the target, the cab or Moroughan?

22 A I can't state what DiLeonardo's  
23 target was.

24 Q Why not?

25 A I'm not DiLeonardo.

1 Timothy Marinaci

2 Q Weren't you asking him questions  
3 about the discharge and firearm?

4 A When I filled out this form, I  
5 had asked how many shots he had fired.

6 Q Right.

7 A One of them told me three. I  
8 knew there were at least three holes in the  
9 cab windshield. So, I would be able to put  
10 three shots and four hits.

11 Q We're not talking about that.  
12 Now, we're talking about the target. You said  
13 you didn't know what the target was.

14 A I said I didn't know what  
15 DiLeonardo's target was.

16 Q Did you ask him?

17 A I don't believe so.

18 Q Why not?

19 A I was filling out the form.

20 Q Doesn't the form call to know  
21 that; what the target was, the number of hits  
22 on the car?

23 A I put that down as a number of  
24 shots that hit the cab.

25 Q Well, you didn't ask him detailed

1 Timothy Marinaci

2 questions about it; that we could agree on?

3 A Correct.

4 Q Why not?

5 A I was a caretaker supervisor.

6 Q You were also the Officer  
7 responsible to fill out a firearms discharge  
8 report, were you not?

9 A Yes.

10 Q Were you aware that DiLeonardo  
11 discharged all the rounds in his revolver that  
12 night, not three?

13 MR. FERGUSON: When are you  
14 talking about?

15 MR. GRANDINETTE: I'm talking  
16 about right now.

17 Q Were you aware that DiLeonardo  
18 discharged the five rounds?

19 A If you're telling me that, this  
20 is the first knowledge I have of how many  
21 shots were actually fired.

22 Q So, if that is in fact what  
23 happened, then DiLeonardo gave you  
24 misinformation regarding the number of rounds  
25 that he fired from his revolver that night,

Timothy Marinaci

correct?

A No.

Q Well, if he actually shot five rounds and he told you he shot three, he gave you misinformation.

A No.

Q Well, how do you explain the discrepancy, then?

A Officers under stress, sometimes, have, initially, trouble remembering how many shots they fired.

Q This is this the first time that you ever responded to such an incident, right?

MR. FERGUSON: To a shooting incident?

MR. GRANDINETTE: Yes.

MR. FERGUSON: Objection.

Q I'm asking you about DiLeonardo; not about his stress, not about your knowledge of what --

MR. FERGUSON: You asked him to explain the difference between 5 and 3, and he explained it.

MR. GRANDINETTE: No, he didn't.



1 Timothy Marinaci

2 Q Officer, let me show you been  
3 marked as Plaintiff's Exhibit 30. Do you  
4 recognize that to be DiLeonardo's gun?

5 A No.

6 Q Do you recognize the numbers on  
7 top 982?

8 A I believe that's a 9.

9 Q For purpose of my question, I ask  
10 you to assume the following: That this came  
11 from Nassau County IAB report. It's  
12 DiLeonardo's revolver that he used that night,  
13 and it shows the discharged shells of five  
14 rounds, the capacity of his off-duty weapon,  
15 and that he shot all five. Okay?

16 Now, that being the case, is it  
17 not true that Officer DiLeonardo  
18 misrepresented the number of rounds he fired  
19 that night?

20 MR. FERGUSON: Asked and  
21 answered.

22 A I don't know if he  
23 misrepresented.

24 Q I'm not asking you whether he did  
25 it intentionally or unintentionally. I'm

Timothy Marinaci

asking, factually, the information he gave you was wrong.

MR. FERGUSON: He said he doesn't know. He's answered that question twice or three times already.

Q Correct?

A I have no knowledge of the IAB report. I have no knowledge of any investigation done. I do not know.

Q For purpose of this question, I'm asking you to assume that this is his gun.

MR. FERGUSON: You've gone through this.

Q And he discharged five rounds. That being assumed, you agree that DiLeonardo misrepresented the number of round fired?

A No.

MR. FERGUSON: This is the fourth time you asked the question.

Q Now, you see the next lower section, it says "firearm drawn beforehand" and it's checked off "yes"?

A Yes.

Q Explain that to me.

1 Timothy Marinaci

2 MR. FERGUSON: What is the  
3 question?

4 Q Explain what that means to me.  
5 Why did you check that box?

6 A It means firearm was drawn  
7 beforehand.

8 Q Could you explain to me what  
9 facts were presented to you that led you to  
10 check off that box?

11 A During my conversation with the  
12 DiLeonardo and his attorney, I asked him was  
13 the weapon drawn beforehand, and one of them,  
14 I believe, said yes.

15 Q Well, every weapon -- unless it's  
16 in his holster -- has to be drawn before it's  
17 discharged.

18 With respect to the context of  
19 this form, could you explain to me what facts  
20 were reported to you to suggest that  
21 DiLeonardo pulled his gun before he discharged  
22 it?

23 A I asked them -- DiLeonardo and  
24 his attorney -- was the firearm drawn  
25 beforehand. And one of them said yes.

1 Timothy Marinaci

2 Q That's all you asked?

3 A I believe so, yes.

4 Q So, is the way you filled out  
5 this form -- did you just read what was in the  
6 box and get a yes or no answer and check the  
7 box; is that how you did it?

8 A Yes.

9 Q So, there was no follow-up  
10 questions; there was just type of discharge,  
11 line of duty, accidental, animal, other. And  
12 they said line of duty and you checked off  
13 line of duty; is that how it went?

14 A No.

15 Q With respect to firearm drawn  
16 beforehand, did you ask him just that  
17 question, and that question only? And one  
18 them said yes and you checked the box and  
19 moved onto the next question?

20 A Yes.

21 Q Is there any reason why you  
22 didn't make any further inquiry?

23 A I had no investigative  
24 responsibility at the scene.

25 Q God for bid, we should find out

1 Timothy Marinaci

2 what actually happened before the man pulled  
3 the trigger, right?

4 A Yes.

5 MR. FERGUSON: Objection.

6 Q The distance to the opponent  
7 when first shot was fired; how did you ask  
8 that question and what was the response?

9 A I asked what was the distance to  
10 opponent when first shot was fired.

11 Q Just like that?

12 A I believe so.

13 Q Quoted from the box?

14 A The way I asked it.

15 Q Then what was the response?

16 A Approximately 10 to 20 feet.

17 Q Who told you that?

18 A I don't recall.

19 Q Given the fact that you believe  
20 that DiLeonardo may not have given you  
21 accurate information because of his state of  
22 mind regarding the number of shots fired --

23 MR. FERGUSON: He didn't say --  
24 where are you inventing this?

25 Note my objection.

1 Timothy Marinaci

2 Q So, you're not sure which one of  
3 them, but somebody told you between 10 and 20  
4 feet?

5 A I said approximately 10 to  
6 20 feet.

7 Q Any follow-up questions?

8 A No.

9 Q Now, next, it indicate here, "Was  
10 there time to aim?" And the answer is yes.

11 Was there any specificity to that  
12 question, or was there just same thing "Was  
13 there time to aim," and he said yes?

14 A I asked was there time to aim,  
15 and one of them answered yes.

16 Q Did you have any follow-up  
17 questions about the facts? Did he explain it  
18 in any more detail, or was it just the one  
19 word answer yes?

20 A It was the one word answer, yes.

21 Q Now, the next line says, Officer  
22 injured by -- and there's two boxes. It's  
23 checked off "other manner," right?

24 A Yes.

25 Q Then we get to Officer's

1 Timothy Marinaci

2 injuries. How did you ask that question?

3 A I didn't ask a question on that.

4 Q You did not?

5 A No.

6 Q Why not?

7 A Because I made any own  
8 determination based on very limited fact that  
9 I had. I don't believe either DiLeonardo or  
10 his lawyer had medical training.

11 Q You said you didn't either, other  
12 than you're an EMT, right?

13 A Which has expired, yes.

14 Q You didn't speak to any hospital  
15 personnel that you can recall regarding the  
16 physical condition of DiLeonardo or Bienz?

17 A I don't believe so.

18 Q You're uncomfortable testifying  
19 about the medical records, but you made the  
20 call in this case that he was seriously  
21 injured?

22 MR. FERGUSON: Note my objection.

23 A Can you repeat the question?

24 Q You're saying you made the call  
25 that DiLeonardo was seriously injured.

1 Timothy Marinaci

2 A Yes.

3 Q What were you basing that on?

4 A The fact that he had been hit by  
5 a car.

6 Q Anything else?

7 A And he had injured.

8 Q We went over the summary -- the  
9 discharge summary from the hospital about some  
10 lacerations and some scrapes and cuts. Was  
11 there anything about the observations of those  
12 scrapes and cuts that led you to believe that  
13 he was seriously injured?

14 MR. FERGUSON: Note my objection.  
15 There's no foundation that the Officer  
16 had the hospital records -- the record  
17 that you're referring to when he  
18 completed this report. One is not  
19 related to the other.

20 Objection. What is the question?

21 Q My question was: Other than some  
22 lacerations -- minor lacerations, there wasn't  
23 any physical injury to DiLeonardo, right?

24 MR. FERGUSON: Note my objection.

25 A I don't know if he had -- at that



1 Timothy Marinaci

2 point, I didn't know if he had any other  
3 injuries.

4 Q He was being discharged from the  
5 hospital, right?

6 MR. FERGUSON: Objection.

7 A Not at the point I asked these  
8 questions.

9 Q At the point you asked the  
10 questions, if you wanted to accurately record  
11 it why didn't you ask one of the hospital  
12 staff --

13 MR. FERGUSON: Objection.

14 Q What the diagnosis was.

15 MR. FERGUSON: Objection.

16 A To my knowledge, doctors aren't  
17 allowed to discuss patient's information with  
18 someone else.

19 Q But, you didn't ask DiLeonardo  
20 the question, either; and he was the patient?

21 MR. FERGUSON: Objection.

22 A Ask him which question?

23 Q The Officer's injury -- you said  
24 you specifically never asked DiLeonardo or his  
25 lawyer the nature of his injury, whether it

1 Timothy Marinaci

2 was fatal, slight, serious, or unknown?

3 A Yes, correct.

4 Q If you didn't know, there's a box  
5 there for unknown. Why didn't you check  
6 unknown rather than serious?

7 A Because I knew he had been hit by  
8 a car and had injuries.

9 Q You, also, said earlier that he  
10 had some lacerations, he appeared to be fine,  
11 and wasn't in any apparent distress.

12 MR. FERGUSON: Note my objection.

13 A I never said he appeared to be  
14 fine.

15 Q You observed him that night,  
16 right, physically, DiLeonardo?

17 A Yes.

18 Q You know there's a whole series  
19 of photographs regarding his physical  
20 appearance that night?

21 A I have no knowledge of the IAU  
22 investigation.

23 MR. FERGUSON: He just invents  
24 things. Note my objection.

25 Q Let me show you some of the

Timothy Marinaci

photographs of Officer DiLeonardo provided to me by your attorney. Show you a series of photographs from Plaintiff's Exhibit 24, marked 993 through 998 taken on the 27 of February, 2011.

I'd ask you to flip through those photographs.

MR. FERGUSON: My objection is to using photographs that are not marked as exhibits.

MR. GRANDINETTE: They are exhibits.

Q Now, are there any other serious physical injuries depicted in those photographs?

MR. FERGUSON: Objection.

A I don't know.

Q Would you agree with me that the photographs display some abrasions consistent with the medical records that we looked at, earlier?

MR. FERGUSON: Objection.

A I don't know how a doctor would classify those injuries.

1 Timothy Marinaci

2 Q But, you that night classified  
3 them as serious?

4 A Yes.

5 Q Going down a little further we  
6 have under the perpetrator's information; it  
7 indicates that the perpetrator was arrested.  
8 Then it says the type of weapon used. There's  
9 a box checked and it says "Other automobile."  
10 Can you explain to me what that means?

11 A It means DiLeonardo was injured  
12 by the defendant's automobile.

13 Q Was that asked the same way the  
14 other questions were asked? Did you ask what  
15 type of weapon was used?

16 A I don't believe so, no.

17 Q What did you ask with respect to  
18 this?

19 A I don't believe I did ask  
20 anything.

21 Q This information you filled in?

22 A Yes.

23 Q Now, according to this form it  
24 says that it was prepared at 2/27/2011 at 750  
25 hours, correct?

1 Timothy Marinaci

2 A Yes.

3 Q If we utilize the earlier  
4 exhibits about you headed out to the hospital  
5 about 1:40 and you got in it looks like about  
6 2:11.

7 Did it take you about the same  
8 time to get back to the Third Precinct?

9 MR. FERGUSON: Note my objection.  
10 There was no testimony that he got in at  
11 2:11.

12 Q After you got this information,  
13 right, you said you had this with you at the  
14 hospital, right?

15 A The blank form, yes.

16 Q But, you said that you prepared  
17 the exhibit itself back at the Precinct,  
18 correct?

19 A I said I completed it at the  
20 Precinct.

21 Q Would that time reflect the time  
22 that you completed it, 0750?

23 A Approximately, yes.

24 Q Would that then, sir, help you at  
25 all with the assessing what time you left the

Timothy Marinaci

hospital?

A No.

Q How long was this conversation with DiLeonardo and Miller?

A A minute or two.

Q Did you have any other conversation with DiLeonardo that night?

A No.

Q According to your testimony, you've never spoken to him, again, about this incident since that night?

A Correct.

Q So, if I understand your testimony correctly, how many years you've been working with him?

A I've been in the Third Precinct with him for a little over three and-a-half years.

Q Guys working under your command for three and-a-half years -- he's involved in a traumatic event where he's hit by an automobile and he is discharged and actually hit a perpetrator, and the total amount of time that you have spoken to him about these

1 Timothy Marinaci

2 events is about 2-and-a-half to three minutes?

3 A Correct.

4 Q Is there any reason why you  
5 wouldn't have spoken to him as a supervisor --  
6 asked him how he is doing after this?

7 A I never said I didn't ask him  
8 about his health. I said I didn't ask him  
9 about the incident.

10 Q You said you never discussed the  
11 incident, again.

12 A I have not.

13 Q Bienz -- did you speak to Bienz  
14 in the hospital, again, that night?

15 A I don't recall.

16 Q So, your investigation is the one  
17 brief conversation for about a minute and you  
18 don't than recall speaking to him again after  
19 that?

20 A Correct.

21 Q Did you report any of your  
22 observations, discussions of what you did at  
23 the hospital with anybody other than Papa?

24 A Did I discuss it with anyone; is  
25 that what you're asking?

1 Timothy Marinaci

2 Q Yes.

3 A Yes.

4 Q Who?

5 A Inspector Horace.

6 Q When?

7 A That night.

8 Q Where?

9 A At the hospital.

10 Q How long was that discussion?

11 A Several minutes.

12 Q What was the sum and substance of  
13 that conversation?

14 A I believe I told him that there  
15 was an alteration of some type. Both officers  
16 were injured. I believe both officers were  
17 hit by a car. And at some point Officer  
18 DiLeonardo had shot the cab driver.

19 Q Is that when Horace arrived at  
20 the hospital after you?

21 A At some point after he arrived --  
22 a short time after he arrived.

23 Q So, why don't we look at that  
24 crime scene log together so we might be able  
25 to --



1 Timothy Marinaci

2 MR. FERGUSON: It's not a crime  
3 scene log.

4 MR. GRANDINETTE: Scene log.

5 MR. FERGUSON: Nor is there any  
6 foundation that it's recording when  
7 people arrive.

8 MR. GRANDINETTE: Exhibit  
9 Number 24.

10 Q If we look at the scene log  
11 maintained by reported Officer Faya it  
12 indicates that Horace arrived --

13 MR. FERGUSON: Objection.

14 Q At or about 0251, correct?

15 MR. FERGUSON: Objection.

16 A That's what this form states.

17 MR. FERGUSON: Really?

18 Q Is that consistent with your  
19 recollection that he got there 30-40 minutes  
20 after you?

21 MR. FERGUSON: Objection.

22 A I don't recall what time he got  
23 there.

24 Q At any rate, how long was your  
25 conversation with Horace?

1 Timothy Marinaci

2 A Few minutes; 2 to 3 minutes.

3 Q You communicated this information  
4 to him. Did he communicate anything to you?

5 A When you say communicate --

6 Q Did he say anything to you, or  
7 did he impart any information to you? Did he  
8 give you any orders?

9 A At that point he gave me no  
10 orders. He had no information to give me.

11 Q So, you provided him with  
12 information?

13 A With the limited information I  
14 had, yes.

15 Q He came up to you and said -- did  
16 you know Inspector Horace?

17 A Vaguely, yes.

18 Q Did he say -- ask you, "What's  
19 going on? What do you know?"

20 A Well, I knew why he was there.  
21 So he didn't have to ask me.

22 Q Why was he there?

23 A I was told by Sergeant Papa in  
24 our phone conversation that he was the -- I  
25 believe he was the duty Officer that night.

1 Timothy Marinaci

2 Q As the duty Officer, why would he  
3 then have to respond?

4 A That's a decision made higher  
5 than me.

6 Q He was a member of the Deadly  
7 Force Response Team; that's what Papa told  
8 you, right?

9 A No. He told me he was the duty  
10 officer.

11 Q You have a conversation with him.  
12 It's a couple minutes, you said?

13 A Yes.

14 Q What do you observe him do next?

15 A Horace?

16 Q Yes.

17 A Walk aware from me.

18 Q Did you ever see him that  
19 evening speak directly with DiLeonardo or  
20 Bienz?

21 A I don't recall.

22 Q Did you ever see him speaking  
23 with any detectives from the Suffolk County  
24 Police Department?

25 A I believe so, yes.

1 Timothy Marinaci

2 Q When and where?

3 A That night in the vicinity of the  
4 emergency room.

5 Q Did he ever communicate the  
6 substance of his conversation with the  
7 detectives to you?

8 A No.

9 Q Did Inspector Horace ever speak  
10 to you after this initial conversation?

11 A Yes.

12 Q Did he ever impart to you  
13 substantive facts about the underlying event?

14 A No.

15 Q So, although you may have  
16 communicated with him again, he never  
17 communicated anything regarding the facts  
18 about the shooting?

19 A Correct.

20 MR. FERGUSON: I'm going to -- I  
21 have to use the bathroom at some point.

22 MR. GRANDINETTE: Okay.

23 MR. FERGUSON: What is the  
24 question, now?

25 Q What were those conversations

1 Timothy Marinaci

2 about, small talk?

3 A Some small talk. I believe he  
4 asked me if there was anything I needed. I  
5 told him no. Other than that, very limited.

6 Q Since leaving the emergency room,  
7 have you ever spoken to Inspector Horace about  
8 this case, again?

9 A No.

10 MR. GRANDINETTE: Why don't we  
11 break, right now.

12 (Whereupon, a short break was  
13 taken at this time.)

14 Q So, Inspector Horace -- you  
15 didn't have any substantive conversations  
16 about underlying facts after that initial  
17 meeting at the hospital or thereafter?

18 A No.

19 Q Did you ever see DiLeonardo and  
20 Bienz together in the hospital?

21 A I don't believe so.

22 Q Remember I was asking you about  
23 Riscoe Lewis?

24 MR. FERGUSON: Is that a  
25 question?

1 Timothy Marinaci

2 Q Remember, when I was asking you  
3 about with the young black women, Riscoe  
4 Lewis, the ADA?

5 A I remember you asked me about  
6 her, yes.

7 Q I want to read you from a couple  
8 of sections of her report, and ask you if this  
9 refreshes your recollection of hearing  
10 Mr. Moroughan ask for an attorney or indicate  
11 that he was shot. Okay?

12 MR. FERGUSON: He already  
13 answered these questions four times.

14 Q This is from the interview of the  
15 Suffolk County IAB Officer.

16 Question --

17 MR. FERGUSON: If you're going to  
18 read from a document, do I get a copy of  
19 it?

20 MR. GRANDINETTE: Sure.

21 MR. FERGUSON: I don't have  
22 anything from Suffolk County.

23 Q Starting at page 289 -- I'm sorry  
24 288.

25 MR. FERGUSON: What are you

1 Timothy Marinaci

2 reading from?

3 MR. GRANDINETTE: The question  
4 and answer from the Suffolk County IAB  
5 interview with Riscoe Lewis.

6 MR. FERGUSON: You're asking this  
7 witness to refresh his memory --

8 MR. GRANDINETTE: I'm going to  
9 ask him questions about it.

10 Q "Question: Did you speak to any  
11 of the officers there?

12 RISCOE LEWIS: Yeah, when I  
13 first -- when I asked if I could speak to him  
14 because he was yelling 'That's my lawyer,  
15 that's my lawyer.' He was yelling out the  
16 door. He was yelling 'I'm hurt. I'm hurt.  
17 They hurt me. They shot me. They shot me for  
18 no reason.' And he kept asking me to come  
19 into him because he basically wanted to be  
20 comforted."

21 Now, during the course of your  
22 presence at the hospital, did you ever hear  
23 him say those words?

24 MR. FERGUSON: Asked and answered  
25 multiple times.

1 Timothy Marinaci

2 A No, I didn't.

3 Q "Question: And you were standing  
4 by the nurses station most of the time?

5 Answer: Yes. I was watching him  
6 the whole time telling him to calm down.  
7 Quiet down. He was very very upset; crying,  
8 whining, he is in pain, scared, asking what  
9 are they doing to me. And I just kept telling  
10 him calm down. Calm down."

11 Did you ever here Mr. Moroughan  
12 crying -- crying out asking for Riscoe Lewis,  
13 his attorney, whining anything like that?

14 A No.

15 Q "Question: And do you remember  
16 who he was asking for an attorney?

17 Answer: By Riscoe Lewis. He was  
18 yelling that out loud. Anybody in the  
19 hospital heard that because he was yelling it  
20 over and over and over, probably for hours.

21 Question: And he was asking for  
22 you, specifically?

23 Answer: Yeah. He was saying  
24 that's my lawyer. That's my lawyer. That's  
25 my lawyer. I want my lawyer."



1 Timothy Marinaci

2 So, according to the IAB  
3 interview of, now, Police Commissioner Riscoe  
4 Lewis -- Deputy -- I'm sorry -- of then  
5 Assistant District Attorney Roscoe Lewis,  
6 she's indicating that when she was standing at  
7 the nursing station for hours, she heard him  
8 yelling out for his lawyer and crying and why  
9 did they shoot me.

10 You didn't hear any of that?

11 A No.

12 Q But, you definitely saw her,  
13 right?

14 A Yes.

15 Q So, you didn't really get into  
16 any issues about the case with him or what  
17 happened? Of course not.

18 MR. FERGUSON: Where are you  
19 reading from?

20 MR. GRANDINETTE: I'm reading  
21 from page 299.

22 MR. FERGUSON: Okay. What is it,  
23 now?

24 Q Now, there comes a point in time  
25 that you filled out some paperwork regarding

1 Timothy Marinaci

2 Workman's Compensation claim for DiLeonardo  
3 and Bienz; is that correct?

4 A Yes.

5 Q How did that come about?

6 A I'm not sure I understand the  
7 question.

8 Q Is that your duty -- did they  
9 request to miss work? How did it come about  
10 that you were involved in a submission of  
11 forms for Workman's Compensation?

12 A It's department procedure.

13 Q When you say department  
14 procedure, what do you mean by that?

15 A Procedure the department uses to  
16 report injuries to officers.

17 Q What is Workman's Compensation  
18 submission?

19 A To the best of my knowledge  
20 there's a state form. I believe an EC-2.

21 Q What are you doing when you  
22 submit a Workman's Compensation report?

23 A I'm filling out a form and  
24 submitting it to the State.

25 Q For what purpose, for

1 Timothy Marinaci

2 compensation because an employee can't work as  
3 a result of a physical injury?

4 A If he can't work because of a  
5 injury physical.

6 Q But, in this case you filled out  
7 two Workman's Compensation reports indicating  
8 that DiLeonardo and Bienz couldn't work as a  
9 result of physical injuries, right?

10 A I'd have to review the paperwork.

11 Q I thought you reviewed it this  
12 morning.

13 Did you review it this morning?

14 MR. FERGUSON: Whether he did or  
15 not, he needs to review it. What  
16 difference does it make?

17 MR. GRANDINETTE: I don't know  
18 that you need to report to answer this  
19 question.

20 Q When you submit a Workman's  
21 Compensation report to an insurance company,  
22 the reason you're doing it is to compensate  
23 somebody who can't go to work as a result of  
24 sustaining physical injuries, correct?

25 MR. FERGUSON: Objection.

1 Timothy Marinaci

2 A Not necessarily.

3 Q Well, give me another instance  
4 where you'd submit it.

5 A Where an Officer is injured and  
6 doesn't miss any work.

7 Q In this particular case, did an  
8 Officer miss work, either DiLeonardo or Bienz?

9 A I would have to look at the forms  
10 to see if they did go on sick.

11 Q So, even if they didn't miss work  
12 you'd still submit the form?

13 A Correct.

14 Q Why is that?

15 A I don't know.

16 MR. GRANDINETTE: If you could  
17 mark this. This is page 298 through  
18 306.

19 (Plaintiff's 31 so marked)

20 Q Why don't you review those?

21 MR. FERGUSON: 298? It's 268.

22 MR. GRANDINETTE: 268 through  
23 306.

24 MR. FERGUSON: That's going to be  
25 about 40 pages. You want to direct him

1 Timothy Marinaci

2 to a specific page?

3 MR. GRANDINETTE: No.

4 MR. FERGUSON: You want him to  
5 read 40 pages?

6 MR. GRANDINETTE: Sure. Whatever  
7 you need. These are all the records  
8 that were given to me. So, whatever you  
9 need to look at.

10 MR. FERGUSON: How would he know  
11 that until you ask a question?

12 MR. GRANDINETTE: Because I just  
13 asked him.

14 MR. FERGUSON: What's the  
15 question, now?

16 MR. GRANDINETTE: Withdrawn.

17 Q Look at these forms. Are these  
18 the forms you filled out on behalf of  
19 DiLeonardo and Bienz' paperwork?

20 A I did not fill out all of them.

21 Q Right. But, is that part of the  
22 package of the material that was submitted for  
23 DiLeonardo and Bienz for Workman's  
24 Compensation?

25 A First ones I'm looking at are

1 Timothy Marinaci

2 departmental form. I'm not aware if they go  
3 to Workman's Compensation.

4 Q Let's start with the page 268  
5 PDCN206; did you fill out that form?

6 A Yes.

7 Q Why did you fill out the form?

8 A Department procedure.

9 Q Did you submit this form to the  
10 Workman's Compensation Board?

11 A I did not, no.

12 Q Was it submitted by anyone?

13 A I don't know.

14 Q Let's look at page 269. This  
15 appears to be identical to 268. However, it's  
16 amended on 5/4/2011; you see that?

17 A (No response)

18 Q Did you fill out this page 269?

19 A Yes.

20 Q Was this form submitted to  
21 Workman's Compensation?

22 A I don't know.

23 Q If you look at the middle of this  
24 form, it says member advised of Article 7 Rule  
25 16 and Rule 17 of department.

1 Timothy Marinaci

2 MR. FERGUSON: Where is that?

3 MR. GRANDINETTE: It's checked

4 off.

5 MR. FERGUSON: Okay.

6 Q What are those rules?

7 A Those are the rules

8 regarding sick leave.

9 Q What are they?

10 A All the rules regarding sick

11 leave.

12 Q Is that what they are?

13 A I'm not sure -- is what they are?

14 Q You said Article 7 Rule 16 and 17

15 govern the provisions of rules of sick leave,

16 right?

17 A Correct.

18 Q It says this form is filled out

19 by you and I'm assuming that you advised them

20 of these rules?

21 A They're provided that form. This

22 has the rules on them.

23 Q You provided them with the rules?

24 A Yes.

25 Q That's why this box says "Member

1 Timothy Marinaci

2 advised Article 7 Rule 16 and 17 of  
3 department, yes," correct?

4 A Yes.

5 Q So, you're affirmatively  
6 representing to whoever this form is being  
7 submitted to that you advised DiLeonardo and  
8 Bienz of the rules and regulations regarding  
9 the submission of applications for sick leave,  
10 right?

11 A It's not an application for sick  
12 leave. It's the rules regarding sick leave.

13 Q There's certain rules  
14 regarding sick leave. One of those rules, I  
15 imagine, is that you can't lie about the  
16 nature and extent of your injuries to receive  
17 sick leave or sick pay, correct?

18 A I don't know.

19 Q You mean to tell me that you  
20 don't know if you're allowed to lie in an  
21 application for sick leave?

22 MR. FERGUSON: You just asked him  
23 about a specific rule. You said the  
24 rules say. And he said I don't know.

25 Now, you're saying "You mean to



Timothy Marinaci

1 tell me you can't do X." So, now, you  
2 gotten completely different questions.  
3 So, which question -- do you want to ask  
4 about a rule or you want to ask about  
5 something else?  
6

7 MR. GRANDINETTE: Your objection  
8 is noted.

9 Q You don't mean to suggest to me  
10 that the rules don't govern the honest  
11 submission of an injury for sick leave, right?

12 MR. FERGUSON: Note my objection.

13 A I'm stating I would have to read  
14 the rules to see if it says anything  
15 specifically about it.

16 Q As you filled out this form on  
17 2/27/2011, page 268, and 269 on 5/4/2011 you  
18 weren't familiar with the rules yourself?

19 MR. FERGUSON: Note my objection.

20 A I am familiar with the rules.

21 Q As part of the rules, would it be  
22 fair to say that you're not allowed to lie  
23 about the nature and extent of your injury to  
24 recover sick pay?

25 A What I said is I don't know if it

1 Timothy Marinaci

2 specifically states that in the rules.

3 Q But, is the subject matter or  
4 content of that communicated in the rules?

5 A I would have to review the rules  
6 if it says anything about that.

7 Q You wouldn't know off the top of  
8 your head?

9 A I don't know if specifically  
10 states that.

11 Q I'm not asking ask you if it  
12 specifically says you're not allowed to lie or  
13 feign injury?

14 MR. FERGUSON: Yes, you are.

15 Q I'm asking you: Is that  
16 communicated in sum or substance that you have  
17 to be honest about the nature and extent of  
18 your injuries?

19 MR. FERGUSON: Objection.

20 A I would have to review the rules  
21 TO see if IT states that in any form.

22 Q Now, earlier, you indicated when  
23 you were filling out this firearm discharge  
24 report that you checked off that DiLeonardo  
25 was seriously injured. Was that your opinion

1 Timothy Marinaci

2 on 2/27 when you filled out 268?

3 A These were filled out at the same  
4 time that I finished this firearm discharge  
5 report -- same series of forms.

6 Q 268 then -- that was the opinion  
7 you held, right?

8 A Yes.

9 Q 269 was the amended report.

10 In between 2/27 and 5/4, did you  
11 have occasion to see or observe DiLeonardo at  
12 the Precinct or anywhere else?

13 A I don't recall.

14 Q You see where it says on sick  
15 leave it's checked yes?

16 MR. FERGUSON: Which document?

17 Q On the left-hand side.

18 A Which document?

19 Q Between 2/27 and 5/4, do you know  
20 if DiLeonardo was out on sick leave at all?

21 A He was on sick leave. I don't  
22 know how long he was on sick leave.

23 Q Is there a form in here that  
24 would enable you to tell us?

25 A I don't believe so.

1 Timothy Marinaci

2 Q To your recollection, was he out  
3 between 2/27 and 5/4?

4 A I don't recall how long he was on  
5 sick leave.

6 Q Let's turn to page 271. It says  
7 "Supervisors's report of member's actions;"  
8 form 428. Did you fill out this form as well?

9 A Yes.

10 Q Now, it says -- question number  
11 2: "Was member acting within the scope of his  
12 or her official duties," and you checked off  
13 yes, correct?

14 A Yes.

15 Q It says, "Does the member needs  
16 to be trained or retrained?" You said no,  
17 correct?

18 A Correct.

19 Q It said, "Did the member violate  
20 any departmental rules?" You said no,  
21 correct?

22 A Correct.

23 Q Was that your opinion; that  
24 DiLeonardo did not violate any departmental  
25 rules on 2/27/2011?

1 Timothy Marinaci

2 A Yes.

3 Q Just go back to 268 for a second.  
4 You see it says "Forms prepared," and there's  
5 boxes there, 428. We just went over what the  
6 428 was. Then it says 199. What's a form  
7 199?

8 A You have to go through these and  
9 to look for the form 199.

10 Q It also says a C-2; do you know  
11 what a C-2 is off the top of your head?

12 A C-2 is another form that's in the  
13 package, I believe.

14 Q Let's go through it together.

15 Page 272 as opposed to a form  
16 272. It looks like a statement of Edward  
17 Bienz. It says data statement; 9/4/2010 is  
18 crossed out. And in its place look like --

19 MR. FERGUSON: It says date of  
20 occurrence. It doesn't say data  
21 statement.

22 MR. GRANDINETTE: Let's start  
23 again, Mike. I'm asking the question.  
24 But, I think you're wrong.

25 MR. FERGUSON: You're referring

1 Timothy Marinaci

2 to the top of the statement?

3 MR. GRANDINETTE: The top. Then  
4 below it's the same thing.

5 MR. FERGUSON: Date of statement  
6 and date of occurrence.

7 MR. GRANDINETTE: At any rate, it  
8 looks like there's an error in the date  
9 that was corrected.

10 Q Is this a necessary form to be  
11 submitted in conjunction with the insurance  
12 application forms that you filled out for sick  
13 leave?

14 A The incident statement is a form  
15 that is submitted with all 206 packages.

16 Q So, there's a mandatory statement  
17 that's required to be submitted with the  
18 submission of this 206 package?

19 A If the member is able.

20 Q In this case, they both could  
21 write, right?

22 A (No response)

23 Q So, they were able to make this  
24 submission, right?

25 A Yes.

1 Timothy Marinaci

2 Q Now, let's look at page 272,  
3 Bienz's statement. You'd agree with me it  
4 consists of two sentences, right?

5 A Yes.

6 Q So, to your knowledge, other than  
7 this incident/accident statement that's two  
8 sentences, do you know if Bienz signed any  
9 other statement regarding this incident for  
10 any law enforcement agency?

11 A I don't know.

12 Q This statement has to be  
13 submitted by Bienz unless he is incapable,  
14 physically, of doing it in order for him to  
15 make money, right?

16 MR. FERGUSON: Objection.

17 MR. GRANDINETTE: If he misses  
18 work.

19 MR. FERGUSON: Objection.

20 A I don't know anything about the  
21 making of money or anything like that. It is  
22 part of the department procedure to submit  
23 this.

24 Q He has to submit this in order to  
25 get paid if he goes out on sick leave, right?

1 Timothy Marinaci

2 A No.

3 Q I thought you just said part of  
4 the submission in 209 required a statement  
5 from the officer unless the Officer was  
6 incapable of giving a statement.

7 A What's a 209?

8 Q The submission of these insurance  
9 packages -- 206, I'm sorry.

10 A What I stated was -- this was  
11 part of the package that was submitted by me  
12 to the department.

13 Q Right.

14 A I don't make the decision about  
15 whether he gets paid on sick leave or not.

16 Q I didn't ask if you made the  
17 decision. But, in order for it to be  
18 processed, the Officer, if capable, has to  
19 give a statement, right?

20 A At some point, yes.

21 Q And in this case he gave it that  
22 night and it consisted of two sentences.

23 A I don't know when he gave it.

24 Q According to the form, it says  
25 2/27/2011. So, apparently, he was able to



1 Timothy Marinaci

2 write something about what happened in two  
3 sentences, right?

4 A He didn't do it in my presence.

5 Q Did he give it to you to submit  
6 with his paperwork?

7 A No.

8 Q Somebody gave it to you?

9 A I don't recall receiving that.

10 Q Did Bienz go out on leave? Did  
11 he go out on sick leave?

12 A I need to check his paperwork,  
13 also.

14 Yes, he did.

15 Q Do you know if he got compensated  
16 when he was out on leave?

17 A When you say compensated, you  
18 mean paid by the department?

19 Q Yes.

20 A As far as I know, yes.

21 Q Do you know how long he was out?

22 A No, I don't.

23 Q Looking at 273, there's a  
24 statement by DiLeonardo according to this he  
25 filled this out on 2/27/2011, the date of the

1 Timothy Marinaci

2 statement, correct?

3 A That's what the form states.

4 Q This statement is a total of two  
5 sentences as well, correct?

6 A Yes.

7 MR. FERGUSON: What time you got?

8 THE WITNESS: 5:01.

9 MR. FERGUSON: That's it. We're  
10 finished.

11 MR. GRANDINETTE: So, when -- you  
12 want to talk to him and see when he  
13 wants to come back?

14 MR. FERGUSON: He's not coming  
15 back.

16 MR. GRANDINETTE: What do you  
17 mean?

18 MR. FERGUSON: He was here at  
19 10:30. He was here at 9:30 for a 10:30  
20 deposition.

21 MR. GRANDINETTE: My office  
22 called -- said I was trying to get here  
23 at 11:30.

24 I don't want to make an  
25 application.

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Timothy Marinaci

MR. FERGUSON: You're going to  
have to make an application.

MR. GRANDINETTE: Let's get on  
the phone with her, now.

MR. FERGUSON: I'm finished.  
He's going to work. Good-bye.

(Time noted: 5:00 p.m.)

Timothy Marinaci

A C K N O W L E D G E M E N T

STATE OF NEW YORK     )  
                                      : ss  
COUNTY OF NASSAU     )

I, TIMOTHY MARINACI, hereby certify  
that I have read the transcript of my  
testimony taken under oath in my deposition of  
March 8, 2013; that the transcript is a true,  
complete and correct record of my testimony,  
and that the answers on the record as given by  
me are true and correct.

-----  
TIMOTHY MARINACI

Signed and subscribed to before  
me, this                   day  
of                                 , 2013.

-----  
Notary Public, State of New York

Timothy Marinaci

-----I N D E X-----

| WITNESS          | EXAMINATION BY      | PAGE |
|------------------|---------------------|------|
| TIMOTHY MARINACI | ANTHONY GRANDINETTE | 5    |

DIRECTIONS: Pages 6, 6, 16, 34, and 74.

RULINGS: None

MOTIONS: None

-----DOCUMENT REQUEST-----

PAGE 81 Department-issued phone records for  
date of incident.

-----INFORMATION TO BE FURNISHED-----

None

-----EXHIBITS-----

| <u>PLAINTIFF'S</u> | <u>FOR I.D.</u> |
|--------------------|-----------------|
|--------------------|-----------------|

|    |                 |
|----|-----------------|
| 21 | Memo book entry |
|----|-----------------|

|    |                 |
|----|-----------------|
| 22 | Training manual |
|----|-----------------|

254

Timothy Marinaci

23 911 Prinout

24 Scene log

25 IAU - Part 1

26 Photo

27 Photo

28 Medical records.

29 Firearm Discharge Report

30 Photo

31 Pages 268-306 of Exhibit 24

DEFENDANT'S

FOR I.D.

None

Timothy Marinaci

C E R T I F I C A T E

STATE OF NEW YORK )

) ss.:

COUNTY OF NASSAU )

I, RICH MOFFETT, a Notary Public  
within and for the State of New York, do  
hereby certify:

That TIMOTHY MARINACI, the  
witness whose deposition is hereinbefore  
set forth, was duly sworn by me and that  
such deposition is a true record of the  
testimony given by such witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage; and that I am  
in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 8th day of  
March, 2013.

-----  
RICH MOFFETT

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